

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,
2 24TH JULY 2003 AT 10.30 A.M:

3
4 MR. QUINN: Chairman, before I commence with the first witness this morning, I
5 should say that it was intended to have evidence heard in public today from
6 Mr. John O'Halloran, who was a councillor, or was a councillor with Dublin
7 County Council. Mr. Halloran has been on stand by from time to time and the
8 Tribunal was contacted this morning by Mr. O'Halloran's solicitor. Mr.
9 O'Halloran has been, says, he has been taken by surprise, and his solicitor has
10 requested that his evidence might be taken some day next week.

11
12 In fairness to Mr. O'Halloran, he has been on stand by and hasn't been reached,
13 and in circumstances, if there are agreeable to the Tribunal, I ask that his
14 evidence might be taken on Tuesday?

15
16 CHAIRMAN: Very good. Tuesday.

17
18 MR. QUINN: Miss Hanlon please.

19
20 MISS JACKIE HANLON, HAVING BEEN SWORN, WAS EXAMINED
21 AS FOLLOWS BY MR. QUINN.

22
23 Q 1 Thank you Miss Hanlon, I wonder if you just speak into the microphone there;
24 and I think you are the Branch Manager with the AIB in Churchtown, is that
25 right?

26 A That is right.

27 Q 2 And I think you have provided a Statement of Evidence to the Tribunal, which I
28 will open in a moment, isn't that correct?

29 A Yes.

30 Q 3 Before I open that Statement of Evidence, I think I should put your evidence in

1 context by way of recap, Sir.

2

3 CHAIRMAN: Yes.

4

5 MR. QUINN: The Tribunal heard evidence from Mr. Tony Fox on the 11th April of
6 this year; and in the course of his evidence, Mr. Fox was asked about a
7 lodgment to his account of 2,000 pounds on the 2nd July 1992, which would have
8 been within a relatively short period of the date of the alleged payment by
9 Mr. Dunlop to him of a sum of 2,000 pounds.

10

11 Mr. Fox gave, by way of explanation for that lodgment, a withdrawal from his
12 wife's account of a sum of 2,600 pounds on the same day and Mr. Fox said in
13 evidence that the lodgment was a lodgment of 2,000 pounds taken from his wife's
14 account and was for the purpose of paying for central heating.

15

16 If I could have the Fox brief, page number 635 please?

17

18 This is, and I don't propose to read it in detail unless I'm requested to do so
19 by the Tribunal, but this is an extract from the transcript on the 11th April
20 in relation to the segment of Mr. Fox's evidence.

21

22 In the course of that evidence, Mr. Chairman, you identified a similarity or a
23 sequence of numbers in relation to the transaction involving Mr. Fox's wife's
24 account and Mr. Fox's account, and as indicated at that time, the Tribunal had
25 been requesting the bank to provide the back up documentation in relation to
26 the lodgment. That request having been made the previous March.

27

28 Unfortunately, the bank documentation was no longer available, but further
29 inquiry from the bank has led to Miss Hanlon being in a position to give
30 evidence now to the Tribunal, which summarised would seem to suggest that there

1 was indeed a connection between the withdrawal from Mrs. Fox's accounts and the
2 lodgment to Mr. Fox's account; and in any event, it would appear, I think,
3 Miss Hanlon will be in a position to say the lodgment of 2,000 pounds to Mr.
4 Fox's account was not a cash lodgment.

5
6 I just propose to read your statement of evidence, if I may, and ask you if you
7 agree with it. You say that you are the branch manager of the branch. Allied
8 Irish Banks PLC at Churchtown Dublin, and you have 25 years service with the
9 bank. You refer to the accounts of Anthony and Margaret Fox held in the branch
10 and in particular to the account number 04345261 in the name of Anthony Fox and
11 04414091 in the name of Margaret Fox.

12
13 You say the Tribunal has requested back up documentation in relation to two
14 transactions on the above accounts date the 2nd July 1992 respectively. Being
15 a lodgment of 2,000 pounds to the account of Anthony Fox and a debit of 2,600
16 pounds from the account of Margaret Fox. You say that the transactions were
17 conducted at this branch and printout sheets recording the details of the
18 transactions and the related documents would have been held at the branch for a
19 minimum of six years and then destroyed by branch staff.

20
21 "Extensive searches have been carried out by myself and another member of the
22 storage team, in storage areas within the branch. We have thoroughly searched
23 but no documents for this period were found. Off site storage was also checked
24 to ensure records were not relocated for storage at this time. This search was
25 also negative.

26
27 "In 1992 the system was all dockets were processed in a back office in the
28 branch by a separate machine operator and not contemporaneously with the
29 transactions or transactions at the counter. The dockets processed by the
30 operator were subsequently transmitted to a central computer centre where the

1 customers' accounts were credited or debited with the relevant transaction
2 appropriate. The branch accounting system then in place, required that all
3 dockets were processed with credit items preceding debit items. The reason for
4 was this principally to deal with lodgments that had more than one credit, the
5 system being structured to apply any uncleared element to the account of the
6 last credit entered. A tracer number prefixed by a letter was automatically
7 imprinted on the customer's ledgers sequentially as it was processed.

8
9 A "B" prefix to a tracer number indicated that a transaction took place at the
10 branch of AIB where the account was held and related to an account at that
11 branch. A "C" prefix to a tracer number indicated the transaction was
12 processed through the clearing system and comprised an item that was to be
13 lodged to, or debited from, another account at another branch of AIB or another
14 branch. This prefix also appears where a transaction took place at a branch
15 other than the account holder's branch. Based on the fact that the system was
16 structured in such a way a credit docket must be processed before a debit,
17 coupled with an automated tracer number being allocated to each docket.

18
19 I can confirm there was no element of cash in the lodgement of 2,000 pounds to
20 Mr. Fox's account on the 2nd July 1992. If cash had been lodged a dummy docket
21 would have been created by input to represent the cash received in over the
22 counter. This docket would have had a tracer number allocated which would have
23 been the next sequential number after the number on Mr. Fox's account. We know
24 from the customer's ledgers, the next sequential number was allocated to
25 Mrs. Margaret Fox's account. The creation of dummy dockets was for internal
26 accounting procedures only and did not appear on the customer's statements or
27 ledgers."

28
29 I think that concludes your statement, Miss Hanlon in relation to the matter,
30 is that right?

1 A Yes.

2 Q 4 If I could just, for completeness, ask that page number 631 and 632 be brought
3 up on the screen please?

4

5 These are extracts from the bank statements of Mr. Fox and his wife,
6 Mrs. Margaret Fox, and you will see there on the screen in relation to Mr. Fox,
7 Mr. Anthony Fox, there is a lodgment with a number B 503601281 in the sum of
8 2,000 pounds; and then in relation to Mrs. Margaret Fox, again on the 2nd July,
9 1992, there is a debit of 2,600 pounds which has a serial number B 503603282,
10 can you see those?

11 A Yes.

12 Q 5 These are the serial numbers that we are referring to, is that right?

13 A That's right.

14 Q 6 As I understand your evidence, you say that it was the practice within the
15 branch at the time, when processing these transactions, to process the debit,
16 sorry the credit before the debit, is that right?

17 A That's correct.

18 Q 7 That's why Mr. Fox's debit number, which ends in a serial 81 precedes his
19 wife's debit number which ends in serial 82, is that correct?

20 A It's correct, yes, the lodgment proceeded, yes, on that basis.

21 Q 8 I think that had there been a cash lodgment, in other words had the lodgment
22 which had the serial number 81 to Mr. Anthony Fox's account, had that been a
23 cash lodgment, there would have been a dummy debit docket filled out at the
24 counter by the bank staff and that docket would have to be inputted and one
25 would have expected if that were the case, that the - that that dummy docket
26 would have the serial number 82, is that correct?

27 A That is correct.

28 Q 9 And the fact that it doesn't have that number and that his wife's account has
29 that number leads you to believe that, first of all, the 2,000 pounds lodged to
30 Mr. Fox's account wasn't a cash lodgment, is that correct?

1 A That is correct.

2 Q 10 And I think it also leads you to believe or conclude that the 2,600 pounds was
3 the next docket inputted, and obviously related, or must have related to the
4 lodgment of the 2,000 pounds; is that correct?

5 A That is correct.

6 Q 11 I think that before Mr. Fox came to give evidence, you had been requested or
7 your branch had been requested by the Tribunal to provide the back up
8 documentation which would have been available at some stage in relation to this
9 matter, isn't that right?

10 A Yes.

11 Q 12 By letter of the 6th March 2003, you had been asked and you had carried out
12 searches within the branch but to no avail, is that correct?

13 A Yes.

14 Q 13 So your conclusions are based on the tracer numbers as we see them in both
15 accounts, rather than on a sight of the actual original back up documentation
16 that might have been available?

17 A Yes.

18 Q 14 Thank you very much.

19
20 MS. HANLON WAS CROSS EXAMINED AS FOLLOWS BY MS. SMITH:

21
22 Q 15 MS. SMITH: Mairead Smith on behalf of Mr. Fox. If I might be allowed ask a
23 few short questions? I am obliged.

24 Miss Hanlon, I don't know if you can see me, I appear on behalf of Mr. Tony
25 Fox, did you know that Tony Fox was a member of Dun Laoghaire/Rathdown County
26 Council

27 A Not at the time the original requests were made, no.

28 Q 16 Did you know that a series of allegations had been made in the course of these
29 proceedings here in the Tribunal against Mr. Tony Fox, by Mr. Frank Dunlop?

30 A I would have become aware of that resulting in the newspapers some months back,

1 yes.

2 Q 17 Did you know that in the course of this Tribunal, Mr. Frank Dunlop alleged that
3 he paid Mr. Fox a sum of two thousand; did you know that fact?

4 A I did know that, yes.

5 Q 18 You have already stated in your statement that essentially the extent of the
6 investigations you were asked to make by the Tribunal; can I ask you
7 specifically, were you aware that you were asked to investigate into a cash
8 transaction?

9 A I was asked to verify, by the production of the dockets, what the nature of the
10 transaction was. In that my investigation took two angles, one was to look at
11 it from the point of view that it was a transfer from one account in the branch
12 to another, and the other was to look how the transaction would have impacted
13 if it had been an unlinked transaction, such as cash introduced.

14 Q 19 Ok. And can I ask you, did you make any inquiries in relation to the sums
15 between the two accounts, the source of the monies you were investigating
16 beyond those two accounts?

17 A No, it wasn't relevant for me to request the source, it was purely to look at
18 the structure that applied and how they would have appeared within the banking
19 system.

20 Q 20 And finally, Miss Hanlon, the Tribunal has already, quite fairly, pointed out
21 the extent of your evidence, or the extent of the meaning from your statement.
22 Can I ask you, in the interests of clarity, to essentially state whether or not
23 this sum of 2,000 pounds was a cash transaction?

24 A No, it was not a cash transaction. Based on the system of accounting and
25 structure of the system within the bank in 1992, this could not have been a
26 cash lodgment to the account of Mr. Tony Fox. It was a linked transaction from
27 his wife's account to his account.

28 Q 21 Thank you very much, Miss Hanlon.

29

30 MR. QUINN: Just for completeness, perhaps if I read the letter addressed to

1 the bank Legal and Securities department On the 6th March 2003 which raised the
2 queries of the Tribunal in relation to the matter?

3
4 It's addressed to were Des Kiernan, solicitor, it says

5 "I am directed by the Members of the Tribunal to write to you concerning an
6 order of the Tribunal dated 27th March 2002, and the limitations placed thereon
7 by letter of the 12th April 2002. The Members of the Tribunal would be obliged
8 if you provide documentation in respect of the following account" and it gives
9 Mr. Fox's account number and the transaction, and the amount of lodgment is the
10 2nd July 1992, 2,000.

11
12 "In respect of the aforementioned lodgment, please provide the following:

- 13 A. A copy of the lodgment slip/docket, front and back,
14 B. Records in respect of the source of the lodgment, where available.
15 C. Records to identify the amount and value of the cheque, making up the
16 lodgment, and
17 D. Records to identify the element of cash included in the lodgment. It says
18 these queries arise from evidence given during the course of the current module
19 of the Tribunal, and accordingly the Members have requested your urgent
20 attention in this regard".

21
22 So that was the request was made before Mr. Fox came to give evidence.

23
24 CHAIRMAN: All right. Thank you very much, Miss Hanlon for coming down to give
25 evidence; and you are free to go.

26
27 THE WITNESS THEN WITHDREW.

28
29 MR. GALLAGHER: Councillor Colm McGrath please?

30

1 COUNCILLOR COLM MCGRATH, HAVING BEEN SWORN, WAS EXAMINED
2 AS FOLLOWS BY MR. GALLAGHER:

3

4 CHAIRMAN: Good morning, Mr. McGrath.

5 Q 22 Good morning, Mr. McGrath, my name is John Gallagher, Senior Counsel. I am a
6 member of the Tribunal's legal team and I have some questions to put to you on
7 behalf of the Tribunal.

8 You reside at Two Mile Park, Clondalkin, is that correct?

9 A Well, I used to.

10 Q 23 Used to, what's your present address?

11 A It's Palmerstown House, Johnstown, County Kildare.

12 Q 24 Right.

13 A I have a cold by the way, so you have to excuse me.

14 Q 25 You have a been a member of Dublin County Council, you were a member from 1985
15 to 1994; and I think you are a member of South Dublin County Council since
16 1994, is that correct?

17 A Yes.

18 Q 26 You are still a member of the council?

19 A Yes.

20 Q 27 You represent Fianna Fail interests on Dublin County Council for a number of
21 years. I think up to 19, perhaps the year 2,000 or thereabouts, is that
22 correct?

23 A Yes, give or take.

24 Q 28 Now, you were circulated by the Tribunal in 1998 with a circular which you were
25 asked to deal with, in the course of which you were asked a number of questions
26 which related specifically to the lands which were identified in the Terms of
27 Reference of the Tribunal.

28 Do you remember that? I'll put it on screen for you. Page 6 of Mr. McGrath's
29 brief, please? Do you see it on the screen beside you? This is a
30 questionnaire that went out from the Tribunal to you and to all other

1 councillors in 1998. Do you remember that?

2 A I do, yes.

3 Q 29 And you answered to that, and perhaps if we can go to question number 22 on
4 page 12 and the following page 13. You were asked, "Are you aware of any
5 payment or offer of payment or other benefit to any public representative,
6 member of An Bord Pleanala, local government or official, or official of An
7 Bord Pleanala in connection with the zoning, planning, by-law, or tax
8 designation status of any property, or in connection with the provision of
9 services; including roads, sewerage, water mains, way leaves, etc, to any
10 property". And you answer to that question, "no," isn't that right?

11 A That's right, yes.

12 Q 30 And at question 24 on page 13, you were asked as follows "Are you aware of any
13 act or omission by any public representative, member of An Bord Pleanala, local
14 government office, or official of An Bord Pleanala which could involve
15 corruption or involve attempts to compromise the disinterested performance of
16 public duties." You answered "no"to that.

17 You returned that questionnaire on the 24th March, 1998. You understood, I
18 take it, you were being asked in those two questions about any payment or offer
19 of payment in relation to any lands or to any act or omission by any person, to
20 your knowledge or belief, in relation to any lands in the County of Dublin?

21 A Mmm.

22 Q 31 Did you understand that?

23 A I did, yes.

24 Q 32 Would you tell the Tribunal about your career as a politician, when and why you
25 became involved in politics and what role you played, what area you
26 represented, etc, for Dublin County Council and subsequently for South Dublin
27 County Council.

28 A Well, that could be a long answer.

29 Q 33 Well, it wouldn't be the first long answer we have got here.

30

1 CHAIRMAN: Well, just a brief outline of your involvement in the council to
2 date.

3 A Well, I was a member, I joined Fianna Fail when I was about 18 years old, I
4 think. I moved up through the rank, I suppose quite quickly, I became Cumann
5 Secretary when I was 19 years old, I was a comhairle Dail delegate when I was
6 21. I played an active role in the party for many years up to the point, and I
7 showed an interest in standing for election as far back as 1979. However I
8 wasn't successful at convention.

9
10 Moving along, I got my chance to run in 1985 and I was elected to Dublin County
11 Council at my first attempt and I have been elected since in each subsequent
12 council election.

13
14 Motivations for going into politics? I suppose my father was my biggest
15 motivator, he was a longstanding member of the party and I had interfaced with
16 many of the leading politicians for the areas that they represented at the
17 time, covering by area of Clondalkin; I probably would have been inspired by
18 them in the first instance but I think the strongest motivating factor was the
19 very clear evidence of social deprivation and disadvantage which Clondalkin was
20 suffering at the time. And I felt I had a contribution to make to that, to try
21 turn things around.

22
23 Clondalkin was on the periphery of a Dail constituency and by virtue of that
24 fact it wasn't getting the amount of attention it deserved from the TDs who
25 were elected, mainly from other more densely populated centres of population.
26 That trend unfortunately continued with constituency changes. Clondalkin
27 always seems to be the Cinderella in the constituencies. It was on the
28 periphery of the new constituency in Dublin Southwest as well, Tallaght being
29 the dominant town. So I saw a gap there. I felt that there was an
30 opportunity to represent people at a very local level and I suppose that's it

1 really, is that the type of answer you want?

2

3 CHAIRMAN: That's fine.

4 A That was my interest in getting involved.

5 Q 34 MR. GALLAGHER: And at all times you have represented the Clondalkin area as a
6 public representative?

7 A Clondalkin and Newcastle.

8 Q 35 I see. Roughly speaking, can you outline the boundaries of the area you
9 represent, where you have been elected? it covers Clondalkin up as far as,
10 presumably, the canal?

11 A It does.

12 Q 36 Does it come as far as the N4, for example?

13 A I can deal with that no problem. I think it's important to point out, when you
14 are elected to Dublin County Council. You are elected as a councillor for the
15 whole county. And a large part of the reserve functions which you have to
16 complete on a statutory basis refer to the county as a whole, not just your own
17 electoral ward. You have to take cognizance of what's going on in the rest of
18 the county when you are making decisions about your own area, particularly from
19 budgeting points of view and that.

20

21 However, in specific answer to your question, with some minor changes which
22 have taken place in the last few years, the general boundary of my ward, as
23 opposed to my county, were the Kildare border, the Naas Road, I think it's the
24 Killeagh Road which would be between Clondalkin and Ballyfermot, and then
25 generally speaking, the Liffey. That would be the quadrant or ward.

26 Q 37 For example, do you cover the Quarryvale area, is that within the ward?

27 A Yes, it would have been.

28 Q 38 Is Lucan Village within your ward?

29 A No.

30 Q 39 Is Newcastle Road area within your ward?

1 A Yes, out as far as the canal.

2 Q 40 I see.

3 A The Grand Canal.

4 Q 41 So the Grand Canal is not in any way a boundary of your ward?

5 A Yes, the canal would be - that's where I said "generally speaking." It is
6 looked upon as the boundary. It's the boundary that you would use in an
7 election, for example, you wouldn't put your posters much beyond the canal, but
8 there are probably a couple of hundred houses on the far side of the canal
9 which are still in your constituency.

10 Q 42 What are they known as, is that Neilstown or what's it called?

11 A That would be Hazelhatch and parts of - the postal addresses are actually
12 Celbridge, but they are on the polling district for the Clondalkin ward.

13 Q 43 Would you tell the Tribunal about your education please, where were you
14 educated?

15 A In - all in Clondalkin, my last school was Moypark College.

16 Q 44 When did you leave the secondary school in Clondalkin?

17 A I think it was 1972.

18 Q 45 Would you tell the Tribunal about your employment since that time, what you
19 have worked at?

20 A Oh well, after I left school, well I was working before I left school, but
21 however that was just temporary work. After I left school I went into Master
22 Irish Food Machines in Kylemore Road.

23 Q 46 What position did you hold there?

24 A I was assistant to the factory manager. It was a stainless steel fabrication
25 factory.

26 Q 47 Where did you work there, after that, how long did you work there?

27 A I was there for about three years, I think.

28 Q 48 Where did you go after that?

29 A I moved then to Fisher Metal Fabrication in Clondalkin.

30 Q 49 After that?

1 A After that - during my time there, there was a transition of a sort of
2 management buy out there when Mr. Fisher retired, so I became a director of the
3 newly formed company, which was Greenhills Metal Fabrication Limited.

4 Q 50 Did you have a management role in that company prior to the buy out or were you
5 working --

6 A Yes, I was the office manager in Fisher's. Then I became a director of the new
7 company.

8 Q 51 What was that called?

9 A Greenhills Metal Fabrication.

10 Q 52 Yes.

11 A And around the same time I started my own business.

12 Q 53 What was that?

13 A Clondalkin Distributors.

14 Q 54 Where was that based?

15 A The same address. Nangor Road, Clondalkin.

16 Q 55 Who owned the premises from which you were operating?

17 A Greenhills Metal Fabrication.

18 Q 56 I see. How long did you continue your involvement with Greenhills Metal
19 Fabrication?

20 A Up to the time I was elected. Shortly after I was elected I resigned as a
21 director. I couldn't really justify my salary based on the amount of time I
22 would be missing from the job.

23 Q 57 Was that in 1985?

24 A Yes.

25 Q 58 Well then you had, your business, your own business, Clondalkin Distributors,
26 what kind of business was that?

27 A Import and distribution.

28 Q 59 What type of goods?

29 A Packaging materials.

30 Q 60 And how many people did you have working for you on that?

1 A In the beginning, just myself.

2 Q 61 I see. Did you continue on that business whilst you were --

3 A I did.

4 Q 62 -- a public representative?

5 A It was by virtue of the fact that I had that business going that I was able to
6 forego the salary from Greenhills Metal Fabrication and devote more time to the
7 politics.

8 Q 63 Was that your only source of income then for the years from 1985 onwards?

9 A Yes, at that time. Yes.

10 Q 64 Well, did it change at any stage subsequent to that? Did your position change
11 in relation to income?

12 A No, not really, no. The names changed but --

13 Q 65 Well what names, what changes in name took place?

14 A Well in 1995, I formed a new company, or I took over a new company and I
15 subsumed the assets of, well assets and liabilities I suppose, the assets of
16 Clondalkin Distributors into Essential Services Limited.

17 Q 66 And what kind of a company was Essential Services Limited?

18 A Well it was a service provider, depending on that route we were going to go,
19 but it didn't actually wind up going the way I originally intended, but it
20 continued the first - it continued what Clondalkin Distributors were doing,
21 importing --

22 Q 67 Sorry, before you took it over, what type of business and what essential
23 services were being provided by Essential Services Limited?

24 A When I took it over, it was dormant, it was a shelf company. Prior to that I
25 understood it to be a vehicle auditing company which was a service being
26 provided to the motor industry to corroborate the physical existence of vehicle
27 stocks at various distributorships around the country, and clients would have
28 been the main car importers.

29 Q 68 I am just not clear on this. Where was Essential Services operating from when
30 you took it over?

1 A I am not sure, I am not sure.

2 Q 69 Did it have any assets or liabilities at the time you took it over?

3 A No.

4 Q 70 Did it have a business premises?

5 A I think it was a one man operation being run probably from home, or else from
6 an office in town, I am not quite sure.

7 Q 71 But, you know - who did you take it over from? Normally there would be a
8 transfer of the shareholding, transfer of directorship, transfer of assets?

9 A Maybe you are misunderstanding me, I didn't take over the company as a going
10 concern.

11 Q 72 I see.

12 A So there was --

13 Q 73 You started up in business, is that correct?

14 A Yes, I bought the name of the company, just that's - as you would from a
15 brokerage.

16 Q 74 All right. So you started to operate the business formerly carried on in the
17 name of Clondalkin Distributors, now being carried on under the name of
18 Essential Services Limited, is that correct?

19 A Yes, I had received advice from time to time from my financial advisors that it
20 might be more prudent to be protected by the limited liability of a limited
21 liability company.

22 Q 75 All right.

23 A Because, as you understand, when you are a sole trader, if you get into any
24 kind of financial difficulties you are personally liable for the debts as
25 opposed to protection.

26 Q 76 Did this change from Clondalkin Distributors Limited to Essential Services
27 Limited involve the acquisition of new premises or new vehicles or taking on
28 additional staff, or anything of that nature?

29 A Not particularly at the time, no. Whatever vehicles were on the books or staff
30 on the books were automatically subsumed into Essential Services.

1 Q 77 What staff were on the books at that stage, I don't quite understand; if it was
2 a dormant company that you effectively bought off the shelf, how there would be
3 staff involved?

4 A Well, the staff that were working for Clondalkin Distributors.

5 Q 78 I see, how many staff were working from Clondalkin Distributors at that time?

6 A Well from memory, I had a secretary around the time. If I had notice of these
7 questions, I would have given you the full facts.

8 Q 79 I just -- it's just --

9 A I can't really remember now. I can't remember if I had a rep on the books, you
10 know what I mean, or was a sub agent or sub distributor however, if that's
11 satisfactory.

12 Q 80 Essential Services took over, essentially, the business of Clondalkin
13 Distributors, is that correct, that's a fair way of putting it?

14 A Yes.

15 Q 81 Whoever was working for Clondalkin Distributors were thereafter working for
16 Essential Services in whatever capacity they had formerly worked?

17 A Yes.

18 Q 82 What services did the company provide, apart from the importation and
19 distribution of the materials that you have talked about?

20 A Well, initially I had hoped to use my experience in the stainless steel
21 business to look for business in that area. However, that's not the way things
22 worked out but - is that what you are driving at?

23 Q 83 What services did the company provide?

24 A Well, its substantive function now is the provision of security services.

25 Q 84 Is that something that started shortly after you took over the company?

26 A Yes.

27 Q 85 When was that?

28 A Around 1995.

29 Q 86 And what security services did you provide, what type of security services?

30 A Site security, static and mobile.

1 Q 87 I see. Did you have previous experience of that business?

2 A No, not specifically.

3 Q 88 And how did you get into that type of business?

4 A By request. I was asked to provide a number of services to archaeologists who
5 were working on a site in Dublin.

6 Q 89 I see. Where was that?

7 A At Quarryvale.

8 Q 90 I see.

9 A And I subsequently, having provided for all their needs, equipment wise, I was
10 subsequently asked to provide security for them because they came to the
11 attention of some local undesirables, and I duly obliged; and that is how it
12 started.

13 Q 91 Was the company set up by you or taken over by, this is Essential Services
14 Limited, with a view to providing those services to provide for the needs and
15 equipment, etc. of archaeologists dealing with a particular site?

16 A Not specifically, no. The primary reason for setting up the company, was as I
17 said, to provide the limited liability protection.

18 Q 92 I see. How many staff did you employ in the years after the company was set up
19 in 1995? Roughly speaking?

20 A Well, it fluctuates. The security business staff is a constant fluctuating
21 figure. It would have started with two or three people and it would have grown
22 to maybe, at peak time, about 27 and some of which would be subcontractors.

23 Q 93 When was peak time?

24 A Oh, peak time; well there's peaks and troughs in that business.

25 Q 94 Can you identify one peak where you had 27 people?

26 A Always the holiday period, when sites go on holidays, you would be providing
27 24-hour cover so your staff would almost double.

28 Q 95 Are you talking about building sites?

29 A Yes.

30 Q 96 So you are talking essentially about the builders' holidays?

1 A Yes, builders holidays, you would always peak.

2 Q 97 They were usually or did usually occur in the beginning of August, now I think
3 in the middle of July on?

4 A Yes, there is traditional times.

5 Q 98 Well, did you have any other business or source of income during the period
6 from 1985 onwards? Other than what you have told the Tribunal?

7 A No, apart from council expenses.

8 Q 99 I see. I think you held a position as the Chairman of the Dublin Regional
9 Authority for 1998 and 1999.

10 A Oh yeah.

11 Q 100What did that involve?

12 A Precisely that, I was Chairman of the Regional Authority for that period. I
13 convened and chaired all meetings of the authority and we deliberated over
14 quite an extensive amount of, future planning strategies I think were the main
15 things.

16 Q 101What area did the Dublin Regional Authority oversee?

17 A I suppose the Greater Leinster area.

18 Q 102I see.

19 A Dublin, obviously, and any border counties.

20 Q 103And you say it was involved in the physical planning of those general areas?

21 A Not the physical planning, no. The spatial strategy we would call it. It
22 would have been the long-term planning view of what was going to happen down
23 the line.

24 Q 104And as chairman, did you find that a burdensome role, or was it something that
25 didn't take up much of your time?

26 A No, it did take up quite a bit of time, yes. I didn't find it burdensome, it
27 was very enjoyable.

28 Q 105Did you meet on a regular basis, daily, weekly, monthly?

29 A We met - the main board met monthly and then we had subcommittees which would
30 have met at least monthly as well. There were two or three of those.

1 Q 106I see. Was this a position that paid you a salary, or paid you --

2 A I think it's called an allowance.

3 Q 107Of what order? What size of allowance, roughly speaking?

4 A It was seven thousand pounds I think.

5 Q 108For the year, is it?

6 A Yeah.

7 Q 109I see. Now, you were a member of Fianna Fail since you were a teenager as I
8 understand it. You ceased to be a member of Fianna Fail and you had been,
9 having been selected as a candidate, you were deselected in 1992 or
10 thereabouts, sorry, 1999 I think, is that correct?

11 A Yes.

12 Q 110Would you tell the Tribunal how that came about?

13 A Well, I was never given any distinguishing reason why I was deselected, but I'm
14 given to understand it had something to do with information which Fianna Fail
15 got, or was leak, from the Tribunal.

16 Q 111Mr. McGrath, I have said this before and I'll say it again and I'll say it as
17 often as necessary. Nothing has leaked from the Tribunal about you or about
18 anybody else. Now, you understand that?

19 A That's your opinion.

20 Q 112I know it.

21 A Well, I don't share that view.

22 Q 113Well you may not share but it, I know it, and that is a fact.

23

24 CHAIRMAN: Well Mr. McGrath, on what basis do you say it was leaked?

25 A I'm sorry?

26

27 CHAIRMAN: You say that information was leaked from the Tribunal.

28 A Sorry, the monitor under here doesn't seem to be working, I'm straining to hear
29 nearly everything that is said. The light is on but it doesn't seem to be
30 working.

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CHAIRMAN: We can hear you perfectly.

A I can hear you now.

CHAIRMAN: Do you have difficulty hearing?

Q 114MR. GALLAGHER: I can hear Councillor McGrath.

A It's very boomy. Unless it's to do with my head cold ...

CHAIRMAN: You suggested that there was leaks from the Tribunal, is that just a suspicion on your part or are you aware of leaks? Is it a suspicion that you have held?

A No, it's not a suspicion I have held. I indicated to counsel before, during my interviews with him, it was clear to me that information that I had given in confidence to the Tribunal was in the hands of Fianna Fail, very shortly after I had given that evidence. Within days. Probably within 24 hours. And subsequent to that there have been articles in the papers over the past number of years which seem to indicate to me that further information which I gave the Tribunal was falling into the hands of journalists. Because they certainly didn't get it from me.

Q 115MR. GALLAGHER: They certainly didn't get it from the Tribunal.

A Well, that's where we have to leave it so.

Q 116In any event, you are aware that the Fianna Fail Party established a committee to report on Standards in Public Life and they interviewed a significant number of elected representatives in the Dublin area. I think all the elected representatives in the Dublin area. You are aware of that? Are you aware of that; sorry, can you hear me?

A I can, yes.

Q 117Are you aware of that?

A I am aware of it from newspaper articles.

1 Q 118 Were you never informed that such a committee had been established? Were you
2 ever invited to attend or meet the committee?

3 A No, I think that was subsequent to my deselection from --

4 Q 119 I see.

5 A So I wasn't probably deemed to be a member anymore.

6 Q 120 Did you enquire from the party as to why you had been deselected?

7 A I did, yes.

8 Q 121 What did they tell you?

9 A They didn't reply.

10 Q 122 May I have page 28 please? According to the report of the Committee, they
11 indicated in relation to you as follows: Paragraph 4.34:

12 "Colm McGrath was elected as a Fianna Fail Councillor for the Clondalkin
13 electoral area in 1985 and subsequently in 1991. He had attended a meeting
14 with the party officials in December 1998. He is no longer a member of Fianna
15 Fail. The committee posted an invitation to attend an interview with the
16 committee. No such meeting took place."

17
18 Now, did you meet with party officials in December 1998?

19 A Yes, but not in that context.

20 Q 123 Was that in the context of your being deselected?

21 A Yes.

22 Q 124 And did they tell you you were being deselected?

23 A Well, what happened was they brought me in to a meeting in Mount Street and not
24 long into the meeting it became clear to me they were in possession of
25 information about donations which I had received and they began to question me
26 about them. So, I very quickly pointed out that I was obliged under the Terms
27 of Reference, or whatever reason I gave them at the time, that anything to do
28 with donations directed to me was none of their business.

29 Q 125 I see.

30 A And that I wasn't obliged to reveal anything to them. So they seemed to take

1 umbrage to that and I clammed up in other words, because I felt straightaway
2 that they had received information relating to my evidence, or to my
3 discussions with the Tribunal.

4 Q 126I see.

5 A So I drew back from the situation.

6 Q 127Did they subsequently post on invitation to you to attend an interview with
7 them?

8 A I have no recollection of that whatsoever.

9 Q 128I see. Mr. McGrath, the interview you had at the Tribunal's offices took place
10 on Wednesday, 27th January, 1999. This meeting - sorry, you had an interview
11 on the 11th October 1998, and you had a further meeting on the 27th January,
12 1999. But you say that you did not receive invitation to attend the meeting
13 with the committee established by the Fianna Fail party in or about that time,
14 is that correct?

15 A I am saying I don't recall receiving one.

16 Q 129I see. The Tribunal has been told by Mr. Dunlop that there was a system in
17 operation in Dublin County Council whereby a nexus of councillors, Fianna Fail,
18 Fine Gael and certain Independent's, proffered their support in terms of
19 signing motions in return for money payments. And this happened in the course
20 of the Development Plan, and it happened in relation to support for votes -
21 support by means of votes in the council chamber. And he has outlined to the
22 Tribunal a system which he says operated, where he was frequently asked for
23 money by councillors. Are you aware that such a system operated?

24 A No.

25 Q 130Did you ever ask Mr. Dunlop for money in return for a vote?

26 A No, never.

27 Q 131Never?

28 A Never.

29 Q 132Did you ever ask anybody else for money in return for a vote?

30 A Never.

1 Q 133Did you ever vote in favour or against a motion in which any person who had
2 given you a contribution, a donation, who had employed you, who was promising
3 to employ, you was interested?

4 A Never.

5 Q 134Was there any whip system in operation in Dublin County Council?

6 A No.

7 Q 135What was the procedure adopted by the Fianna Fail party in relation to matters
8 that would appear on the agenda from time to time? What did they do to
9 consider what their response would be or what their approach would be?

10 A The group would meet.

11 Q 136Where would they meet?

12 A Usually upstairs in Conway's Pub, in whatever the street it's on.

13 Q 137Parnell Street?

14 A Parnell Street, yes. And we would try to arrive at a consensus. The various
15 matters would be discussed on the agenda and we would debate them among
16 ourselves and then that's it. We would decide what way we'd vote on them
17 individually.

18 Q 138The Tribunal has heard that the late Pat Dunne was the whip for the Fianna Fail
19 party, is that so?

20 A He was, yes.

21 Q 139What role did the whip play in the deliberations and in the voting actions of
22 members of the Fianna Fail party at Dublin County Council?

23 A Well, it was Pat's job to ensure that the maximum number of councillors
24 attended the meetings. He would convene them, arrange for the venue, and you
25 know, just do what a whip is supposed to do. Get us there. Yeah.

26 Q 140By what means would he get you there? I don't quite understand what you mean?

27 A He would probably remind us by phone call that there was a group meeting at
28 such and such a time.

29 Q 141This is a group meeting in Conway's?

30 A Yes.

1 Q 142And would he prepare an agenda for that group meeting or how would a decision
2 be taken as to what would be discussed?

3 A There would be an agenda for the meeting if there was internal Fianna Fail
4 matters to be dealt with.

5 Q 143I don't understand what you mean by that. Could you explain?

6 A In the accession stakes within the group, there are various positions within
7 the group, they would come up from time to time for review. They mind find
8 themselves on the agenda as opposed to the general business of the council.
9 There might be, the Ard Fheis might find its way on to the agenda, but
10 generally speaking the agenda was based around the council agenda.

11 Q 144Right. So, in circumstances where the only matters to be debated was items on
12 the council agenda, is it the position that Mr. Dunne would telephone you and
13 other members of the party to say "be sure to be in Conway's at a certain time
14 before the meeting starts". Is that generally what happened?

15 A Not specifically for me --

16 Q 145You and others, I am not suggesting just you?

17 A I am not saying -- there are what you call good attenders and not so good
18 attenders. I didn't need all that much reminding to be there. I would like to
19 think I was a good attender. Around the time of the Development Plan review,
20 which as you know went on for an extraordinary length of time, there were weeks
21 there might be four meetings in the one week and they would involve a lot of
22 adjournments of meetings where the business hadn't been completed, so he would,
23 in particular he would communicate with councillors who weren't at the meeting
24 that was adjourned, to inform them this meeting has been adjourned and is being
25 reconvened on such and such a day.

26 Q 146Were you a good attender at such meetings?

27 A I would like to think I was.

28 Q 147Did it follow that it wasn't necessary, or usual, for Mr. Dunne to telephone
29 you to remind you to be present?

30 A Yeah, because having been at the meeting I would have known that the meeting

1 was adjourned to the following date.

2 Q 148What would happen at the meeting when the agenda was produced? I mean, if you
3 were discussing the Development Plan during one of the special meetings, or at
4 one of the special meetings, I take it that the various motions that had to
5 be - that had been proposed, would be discussed?

6 A Yes, they would.

7 Q 149And would there be a decision taken as to how the councillors would vote in
8 respect of each motion?

9 A There would be no decision taken as to how we would vote. We would discuss a
10 motion. The pros and cons of it. We would have a fair indication of the
11 manager's position on it and we would then listen most attentively to the local
12 councillors for the area that the subject matter was being discussed and then
13 we would decide what way we would go forward on it.

14 Q 150Would you be influenced by the local councillors?

15 A We would.

16 Q 151Would you, would the chairman of the council, if he happened to be a member of
17 the party at that time, would he or she have a significant influence as to how
18 the councillors would vote?

19 A No, not necessarily.

20 Q 152So can the Tribunal take it, that so far as you were concerned, you met with
21 your own councillors, you listened to whatever the local councillor had to say
22 and you made up your mind independently, and you walked out from that meeting
23 not knowing what your fellow councillors were thinking about that motion or
24 what way they had decided to vote?

25 A No, you would have a fair idea.

26 Q 153How would you have that idea?

27 A Because you would have listened to the debate at the meeting.

28 Q 154But --

29 A -- some councillors would be speaking against a particular proposal.

30 Q 155Yes?

1 A So you'd have an idea of who wasn't in favour of something or someone who had
2 reservations about it.

3 Q 156Would it be fair to say that by and large, members of the party voted en bloc,
4 by and large, I am not saying every motion, but by and large?

5 A I'd agree that was the case, but that's not to suggest that there was any whip
6 or anything.

7 Q 157No, but by and large the party did vote en bloc?

8 A By and large they did, for development proposals which they thought were
9 beneficial to the community in which they were going to go.

10 Q 158Well, they voted en bloc, whether it was pro or against particular motions?

11 A It would probably be easier to pursue this line of questioning with an example,
12 you know?

13 Q 159I don't want to take a particular example, but I just want to just ask you to
14 confirm, as seems to have been the case, that the members of your party, and I
15 am not picking out your party specifically, I just asking you because you
16 happen to be a member of that party; and I and have asked other councillors
17 about the Fine Gael position and we'll deal with the Labour position in due
18 course.

19 A That's ok, yeah.

20 Q 160I am asking you about Fianna Fail, it appears by and large to have voted en
21 bloc either for or against motions. Would you agree with that, that that was
22 the situation?

23 A I would say not in an organised fashion.

24 Q 161Whether it was organised or not, I just wondered do you accept, as a fact, that
25 generally speaking, the party voted en bloc?

26 A No, I don't accept that.

27 Q 162Did you ever hear of any allegations of corruption in Dublin County Council?

28 A No.

29 Q 163When did you first hear of an allegation of corruption in Dublin County
30 Council?

1 A I never heard an allegation of corruption in Dublin County Council.

2 Q 164Were you present at a meeting when a Green councillor produced a cheque
3 resulting in uproar in the council chamber and the adjournment of the meeting
4 because of that uproar?

5 A I was, yes.

6 Q 165Was that cheque produced in circumstances where the councillor concerned was
7 asking whether anybody else had received a cheque in respect of their vote?

8 A Yes, I recall that, yes.

9 Q 166He was inquiring whether there was corruption among councillors, isn't that
10 right?

11 A No.

12 Q 167Was that not the implication of the question?

13 A That's not the implication I got from it.

14 Q 168What implication did you get from it?

15 A Just, that he was inquiring if anybody else got a cheque, a similar cheque.

16 Q 169Simple, straightforward, uncontroversial query?

17 A Yes, that's my recollection. He was in the front row waving a cheque in the
18 air and asking if anybody else got one of these cheques.

19 Q 170Did you see him being caught by the throat?

20 A No, I didn't.

21 Q 171You didn't?

22 A No. I remember he provoked quite some animated responses, but to say he was
23 caught by the throat ...

24 Q 172I see.

25

26 CHAIRMAN: Mr. McGrath, what do you think was behind his producing the cheque
27 in the way he did, and the reaction of the other councillors?

28 A Ah, I suppose he was looking for publicity? He may have felt that whoever sent
29 him the cheque was either silly or being presumptuous, that it would have any
30 affect on the way he might vote on a particular issue. I agree it was silly

1 and presumptuous.

2

3 CHAIRMAN: Was that not an allegation of corruption by the Green councillor?
4 In the manner in which he was making the allegation would have been unusual,
5 but wasn't that the net effect of what he was doing?

6 A I couldn't, I disagree with you in the strongest possible terms. For me to
7 agree with that would infer that any time a politician receives a donation,
8 that's corruption, which of course is ridiculous.

9

10 CHAIRMAN: Did you not understand the waving of the cheque to be his way of
11 saying "I am being asked to take a certain course and I am being offered money
12 for it"?

13 A That wasn't the case.

14

15 CHAIRMAN: You think he was waving a cheque because he had received a political
16 donation?

17 A Yes. That's all.

18

19 CHAIRMAN: Even though there was no election pending at the time?

20 A I am not sure what date it was.

21

22 CHAIRMAN: Anyway, your evidence, because this has, we have to be quite clear
23 about what your evidence is; is that when he waved this particular cheque and
24 caused the commotion that followed, that he was merely holding up in the air a
25 cheque which he had received as a political donation, and that there was
26 nothing more to it than that?

27 A He was trying to make more out of it.

28

29 CHAIRMAN: What was he trying to make of it?

30 A I suppose you have to ask him that.

1
2 CHAIRMAN: What do you think he was trying to make of it?

3 A My understanding is that a developer, in his innocence, sent him a donation.
4 So what the developer's motives were --

5
6 JUDGE KEYS: What do you think his motives were? The developer sending a
7 public representative --

8 A Well let's put it this way, from the smallest businessman to the largest
9 corporation in the company, the democratic system is supported on an annual
10 basis, by way of donation. I would put it just in the same category. The
11 developer was contributing to the Green Party, he probably had contributed to
12 all the other parties as well.

13
14 CHAIRMAN: So you are saying this particular Green Party councillor was upset
15 and angry that somebody had sent him what you all perceived as being a normal
16 political donation?

17 A That's my understanding.

18 Q 173MR. GALLAGHER: This was a cheque produced by Trevor Sargent, is that right?

19 A Yes.

20 Q 174And this happened at a meeting of the County Council on the 19th February,
21 1993, and the minutes record that the chairman adjourned the meeting at 5.10
22 pm, "due to disorder in the chamber."

23 Tell me, did you ever receive a political donation from anybody?

24 A Yeah. I sure did.

25 Q 175Did you receive many?

26 A Over the years, yes, quite a number.

27 Q 176If I were to ask you to put a ballpark figure on the number of donations,
28 political donations that you have received over the years, would you please
29 attempt to do so. Ballpark.

30 A I couldn't even give you ballpark.

1 Q 177Are you talking about hundreds, say?

2 A Over the years, well let's think back, it would -- one, two, three, four,
3 five, six; I have contested six elections and there would be a certain amount
4 of donations in between. I would only be guessing now.

5 Q 178That's all I am asking you to do, to guess, do your best estimate.

6 A Well, if you include the participants in fund-raising events, It would be
7 hundreds.

8 Q 179I am talking about the cheques that you might have got from, as political
9 donations, from members of the -- well developers, innocent developers or other
10 people, just at a guess; 50, one hundred, two hundred?

11 A In my political lifetime it would be hundreds, I'd say.

12 Q 180Hundreds. Now, did you, on any occasion on which you received such a donation,
13 stand up in the chamber of Dublin County Council and wave the cheque over your
14 head to indicate that you had been the recipient of a political donation?

15 A No, I did not.

16 Q 181Do you recall any other councillor standing up in the chamber of Dublin County
17 Council, or indeed the chamber of South Dublin County Council to announce to
18 all and sundry that he or she had received a political donation?

19 A No, I have --

20 Q 182I take it it follows from that --

21 A -- with the one exception.

22 Q 183This is the exception that you are talking about, Trevor Sargent's
23 intervention?

24 A Yes.

25 Q 184And I take it that it follows that no other meeting of the County Council or
26 South Dublin County Council had to be adjourned following production, by any
27 elected councillor, of a cheque in the chamber?

28 A No, not to my recollection.

29 Q 185You have told this Tribunal that you did not hear of corruption in the
30 political process, and in particular in the context of Dublin County Council.

1 You clearly have become aware of allegations in the recent past about such
2 corruption, have you?

3 A No.

4 Q 186You are aware that this Tribunal was established?

5 A Yes.

6 Q 187Were you aware what it was established to do?

7 A Yes.

8 Q 188What was that?

9 A To investigate.

10 Q 189What?

11 A The possibility of what you are talking about.

12 Q 190The possibility of corruption?

13 A Mmm.

14 Q 191So there was discussion about corruption when this Tribunal was set up, in
15 1997? Are you aware of that?

16 A Do you mean with me?

17 Q 192No, I am asking you are you aware that there were allegations of corruption in
18 1997 which led to the establishment of this Tribunal.

19 A Allegations, yeah.

20 Q 193You were aware of allegations. Was that the first time you became aware of
21 allegations?

22 A Yes.

23 Q 194Were you a member of the Fianna Fail Party in May of 1993?

24 A I was, yes.

25 Q 195Were you a regular attender at Ard Fheiseanna?

26 A Yes.

27 Q 196Were you aware of the various posts held by various Ministers?

28 A Yes.

29 Q 197Who was the Minister for the Environment at that time?

30 A Minister for the Environment in 1993/1992, Pádraig Flynn, was it?

1 Q 198I think that may have been earlier, do you remember Michael Smith being
2 Minister for --

3 A Michael Smith was subsequently, yes.

4 Q 199Do you remember Michael Smith making two speeches in May of 1993 which were
5 extremely critical of Dublin County Council and its reckless approach, as he
6 saw it -- reckless approach to the review of the Development Plan which had
7 manifested itself in that year, and in earlier years, during the review by
8 Dublin County Council. Do you remember that?

9 A Am I aware of that, is that what you are saying?

10 Q 200Yes.

11 A Yes. The speeches, I have read them since, they were sent of me.

12 Q 201You weren't aware of them before that?

13 A Only newspaper coverage.

14 Q 202Well, were you aware of newspaper coverage?

15 A Yes, I was.

16 Q 203Do you think the speeches and the criticisms that were contained therein were
17 justifiable?

18 A No, I don't.

19 Q 204Were you surprised or disappointed or upset in 1993 when you became aware of
20 the newspaper coverage of Minister Smith's --

21 A Yes, I was.

22 Q 205Did you do anything about it?

23 A Yes, we went to see the Minister.

24 Q 206Who went to see the Minister?

25 A A group of Fianna Fail councillors from Dublin County Council.

26 Q 207What did you say to him?

27 A We expressed our deep dissatisfaction with the comments that he had made. We
28 said that it showed a very poor understanding of the workings of Dublin County
29 Council on his behalf. We were also disappointed that he had chosen to make
30 those remarks without meeting the councillors of Dublin County Council to

1 discuss them, because we would have been able to give him an insight into what
2 was going on at Dublin County Council at the time, which would have coloured
3 his views in a different way I'm sure. So we felt that he jumped the gun and
4 based his remarks on information he received which was poorly informed and not
5 well researched.

6 Q 208 And what did he say to you?

7 A Well, he didn't really say much. We were saying most of it.

8 Q 209 Did he accept that he had been wrong to criticise the council in the way he had
9 or did he stand over his criticism?

10 A I don't specifically recall whether he stood over his criticism or not. He
11 defended himself by saying that he was basing his remarks on information he had
12 been given to which we told him that his information was poorly researched.

13 Q 210 Did he accept that it had been poorly researched?

14 A I think he did at the time, yes. I think he accepted that he should have,
15 perhaps, looked more deeply in the matter and discussed it with the elected
16 members.

17 Q 211 Are you aware of any apology, public apology issued by the Minister, or indeed
18 any public statement issued by you or any of your colleagues in the Fianna Fail
19 party, or on that delegation, subsequent to that meeting?

20 A No, I am not aware.

21 Q 212 You have had the statements sent to you, the statements that were made by
22 various individual witnesses were sent to you from time to time, is that right?

23 A I received them, yes.

24 Q 213 You aware of the evidence that was given here by Mr. Enda Conway, who was
25 Planner with Dublin County Council, Senior Planner for a long time and retired
26 as Planning Officer with Dublin County Council, South Dublin County Council,
27 sorry, do you remember that?

28 A I knew Enda, yes. I received all that correspondence, I didn't read it though.

29 Q 214 You didn't read it?

30 A No.

1 Q 215Did you read any of the statements that were furnished to you?

2 A Very little of it.

3 Q 216Pardon?

4 A Very little.

5 Q 217What statements did you read?

6 A I suppose it's fair to say I didn't really read any of them with any great
7 interest. I think I communicated that to you in a letter recently.

8 Q 218Well, I'd just like you to tell the Tribunal about it. Tell me here about it.

9 Can you tell the Tribunal about any of the statements that you read?

10 A No.

11 Q 219Did you read any of them?

12 A No, not to the extent that I can answer questions on them.

13 Q 220The question is: Did you read any of them?

14 A No.

15 Q 221Did you read any of the transcripts of the evidence that has been given to this
16 Tribunal?

17 A I read some of it, yes.

18 Q 222What transcripts did you read?

19 A Whatever page I opened the lever average file on, and then I might have flicked
20 through a few more pages and read it. It was just to see how the format was
21 and to see how it was going.

22 Q 223I see. Was that something that happened fairly recently after the Tribunal had
23 sent to you copies of transcripts, is that correct?

24 A Yes. They were very bulky and really I just didn't have the time to read them
25 in the context of everything else that's happening in my life.

26 Q 224On the 24th November, 2000, the Tribunal wrote to you, through your solicitor,
27 seeking certain information and conveying certain information to you and
28 seeking your response. May I have page 73 please?

29

30 In the course of this letter, you were informed, among other things, "that the

1 Tribunal was investigating the following information which has come to its
2 attention in relation to you and in respect of which it is the intention of the
3 Sole Member to hear sworn testimony at a public hearing of the Tribunal.

4 A. That since 1990, you directly or indirectly received money on a number of
5 occasions from Frank Dunlop in connection with;

6 One. Your support for the rezoning of lands in the Carrickmines Valley owned
7 by Paisley Park Investments Ltd and subsequently by Jackson Way Properties
8 Limited".

9
10 And you were asked to furnish a detailed written statement setting out your
11 response to the matters which have been "set out above, including but not
12 necessarily limited to whether you, directly or indirectly, received any money
13 on behalf of anybody above mentioned."

14
15 I don't propose to read the letter in full because it has been opened in
16 standard form on previous occasions.

17
18 On the 14th December 2000, page 76, you responded through your solicitor as
19 follows; This was your statement and I quote from it.

20
21 It will come on the screen in a moment. Mr. McGrath.

22 A I have it here.

23 Q 225 And the second paragraph of that letter from Mary O'Brien and Company,
24 Solicitors and she quotes you as saying:

25 "I did not receive any money from Frank Dunlop, either directly or indirectly,
26 in connection with the matters listed at A1. I did receive a number of
27 unconditional political donations from Frank Dunlop in response to fundraising
28 requests to defray election expenses and the cost of running my full-time
29 constituency office. These ranged in amounts from 500 to 2,000 pounds in the
30 form of cash and cheques. Cheques were lodged to my bank account, details of

1 which have been supplied to the Tribunal. Cash was expended on day-to-day and
2 electoral expenses".

3

4 You went on, some of the letter has been deleted because we are only dealing
5 with the Carrickmines lands in this module. "The only records of the above are
6 my bank/Building Society account details, which have been supplied to the
7 Tribunal."

8

9 Would you tell the Tribunal about your constituency office, where was that
10 situated?

11 A It's in Clondalkin village.

12 Q 226Do you own the office or do you rent it?

13 A At the time I was the leaseholder.

14 Q 227So you had a lease on the property?

15 A Yes.

16 Q 228And did you have a full-time staff there?

17 A Yes.

18 Q 229How many persons were employed?

19 A Well, I had one person employed and there was temporary staff. Constituency
20 staff.

21 Q 230Well, you had one person employed and you paid that person?

22 A Yes.

23 Q 231And what other staff were employed there?

24 A There would have been local cumann members.

25 Q 232And were they paid?

26 A Expenses.

27 Q 233What kind of expenses?

28 A Just travelling expenses.

29 Q 234Travelling from where to where?

30 A From their homes.

1 Q 235To your office in Clondalkin?

2 A Yes.

3 Q 236What kind of hours would they work?

4 A Three to four hours a day, depending what we were doing.

5 Q 237How many individuals worked in the office?

6 A One at a time.

7 Q 238I see. So you had one full-time employee and you had a number of other
8 individuals who worked up to four hours per day?

9 A Yeah.

10 Q 239And did they work in the evening, or just --

11 A Sometimes.

12 Q 240Was the office open, generally, nine to five or half nine?

13 A Generally, but we would open in the evening if we were doing a leaflet drop.

14 Q 241And this was funded out of your own resources?

15 A Yes, through the office account.

16 Q 242What do you mean "the office account?"

17 A Well, it was -- the office account was separate from my business account. It
18 was set up specifically in relation to the rental and the administration and
19 running of the constituency office.

20 Q 243Right. And where did the funds which were expended from that account come
21 from?

22 A Well, there was very little funds expended for that account.

23 Q 244Well, I mean there was a rent paid, how much was the rent, approximately?

24 A The rent was around six or seven grand. Five or six grand at the time.

25 Q 245Per annum?

26 A Yeah.

27 Q 246You had light, heat --

28 A Well, maybe I can explain?

29 Q 247-- phone?

30 A Well I started out as a tenant. I started out as a tenant in those offices.

1 Q 248Yes.

2 A And then the lease came up for sale and the landlord wanted to sell the lease
3 with vacant possession, which would have meant that I would have had to vacate
4 the property.

5 Q 249Yes.

6 A So I set about acquiring the lease myself. So I asked for some time to
7 assemble some supporting tenants which I managed to do, thankfully. So then,
8 in effect, I became the leaseholder with subtenants.

9 Q 250You became the landlord?

10 A No, not the landlord, the leaseholder.

11 Q 251I see. Was this a 35 year lease?

12 A It was, yes.

13 Q 252But you had a number of sub tenants?

14 A Yes, because I didn't need all the space that was there and I couldn't afford
15 the full rent.

16 Q 253But you were funding a full-time constituency office at that stage. Where were
17 the monies coming from to pay the rent, to pay the electricity, the overheads,
18 the outgoings, the salaries, the PRSIs, the other expenses that are associated
19 with running an office?

20 A Well there was a surplus on the rent over and above what was being paid to the
21 landlord. There were contributions of the sub tenants towards the services
22 being provided within the context of the overall building, which were invoiced
23 on a monthly basis. And then there was some -- from time to time if the
24 account required it, I would put money into the account, which was political
25 donations money.

26 Q 254I see. So before -- if we can deal with it perhaps in two stages. Before you
27 got any sub tenants, when you were the sole tenant and you were running your
28 own office and you had your full-time secretary, etc, how was that funded?
29 Where did the money come from?

30 A That was through my business.

1 Q 255Through you, you paid it?

2 A Well, yes.

3 Q 256Were you depending on any donations, contributions to support that or to, as a
4 subvention towards that expenditure?

5 A From time to time, yes, but the bulk of it was paid through. My business
6 secretary was my constituency secretary at the same time.

7 Q 257What years are we talking about now?

8 A From the time I took up the lease, I suppose.

9 Q 258When was that?

10 A It would have been quite soon after I was elected in 1985 because I gave a
11 commitment in my election manifesto that if elected, I would open a full-time
12 constituency office in the Clondalkin area.

13 Q 259And you did so?

14 A Yes.

15 Q 260And have you maintained it up to date?

16 A I have, yes.

17 Q 261I see. Are you a married man?

18 A I'm separated.

19 Q 262Do you have a family?

20 A Yes.

21 Q 263You have outgoings associated with, normal family outgoings I take it, that one
22 would have, is that right?

23 A Yes.

24 Q 264And in the early years, your own source of income was the source of income that
25 we have heard about, your working as an office manager, etc. and then you took
26 over Clondalkin Distributors or you established Clondalkin Distributors and
27 subsequently you established or took over a company Essential Services Limited
28 providing security and other services, and is that the only source of your
29 income and has that been the only source of your income over the years?

30 A Yes.

1 Q 265 Just if I may deal with the remainder of the correspondence before I go on to
2 deal with Mr. Dunlop's evidence. On the 5th December, may I have page 78
3 please, you were furnished with copies of the transcripts of the evidence of
4 Mr. Dunlop, that's on Days 145, 146, 147 and 148.

5
6 And you were told in the course of his testimony on those dates that Mr. Dunlop
7 had given evidence which was inconsistent and self contradictory as appeared
8 from the transcripts, and you were asked specifically to note that on Day 148,
9 page 16, questions 87 to 91 inclusive, you were informed the company at number
10 one is Paisley Park and you were furnished with a copy of the, or an excerpt
11 from the note that had been written by Mr. Dunlop, and that's to be found on
12 page 79. See that? You were furnished with that document, weren't you?

13 A I probably was, yes, I am sure I was.

14 Q 266 And you were also informed that, and we are dealing now with the former Paisley
15 Park matters. You were cross referenced at number 34 as having received monies
16 in the context of Paisley Park and you -- may I have page 296, please -- were
17 furnished with an excerpt showing your name at number 34 in the list of
18 documents furnished to the Tribunal by Mr. Dunlop. Did you read those
19 transcripts?

20 A I think I did, yes. I think I should say I recall asking the Tribunal staff to
21 perhaps draw my attention to any section of the transcripts which referred to
22 me, and I think they wrote out to me drawing my attention to those because I
23 said I just didn't have the time to be reading the whole bulk of it.

24 Q 267 I think you -- may I have page 91, please? You were in correspondence with the
25 Tribunal on the 8th April of this year, you said that you had neither the time
26 nor inclination to read all the documentary evidence given to Tribunal.

27
28 "In fact, the volumes of leverarch files are taking up valuable space in my
29 office and causing considerable inconvenience. In an average week I devote
30 around 30 hours of my time to work in South Dublin County Council;

1 Southwestern Area Health Board, Eastern Regional Health Authority, Association
2 of Health Boards of Ireland Executive Committee; Protocol and Practices, sorry
3 Protocol and Procedures Committee of which you were Chairman. In the time that
4 remains, I am managing director of my own company, which is susceptible to all
5 the vagaries of the commercial environment. You appreciate that further
6 demands on my time must rank in some order of importance.

7
8 I remain committed to cooperating with the Tribunal as heretofore. However the
9 survival of my company and the financial security of my family will take
10 precedence over any future demands on my time."

11
12 Now, you were furnished with transcripts of the evidence given by Mr. Dunlop on
13 Days 342, 343, 344 and 345 of the Tribunal's hearings, is that right?

14 A Yes.

15 Q 268 Did you read any of those?

16 A Yes, I think I recall reading them.

17 Q 269 Did you read the statement of Mr. Dunlop which was furnished to you as part of
18 the Carrick One brief, in which he outlined that he had paid you 2,000 pounds
19 to support the motion for the rezoning of the Paisley Park lands in
20 Carrickmines. The question is: Did you read the statement of Mr. Dunlop which
21 was furnished to you as part of the Carrickmines brief in which he outlines
22 that he had paid you the sum of 2,000 to support the rezoning of the Paisley
23 Park lands in 199 --

24 A Can you show me that please, I don't remember reading that.

25 Q 270 May I have page 278, please?

26 Mr. Dunlop had given a statement to the Tribunal in which he said, among other
27 things, said he had received 25,000 pounds from Mr. James Kennedy for the
28 purpose of ensuring that --

29 A It's ok, I did see that.

30 Q 271 And you see that he says that of that 25,000 pounds, or out of that 25,000

1 pounds, he gave monies to a number of councillors, including 2,000 pounds to
2 you?

3 A I see that he says that.

4 Q 272Now, in the course of his evidence, Day 344, Mr. Dunlop has given evidence to
5 the effect that he lobbied you in relation to Paisley Park lands on a number of
6 occasions. What do you say to that?

7 A If it's in any way connected with the allegation that he gave me 2,000 pounds,
8 the answer is "no, he did not."

9 Q 273First of all, did he canvas you in connection with the Paisley Park lands?

10 A I don't recall him canvassing me in relation to the Paisley Park lands, with
11 me.

12 Q 274Do you recall discussing the Paisley Park lands with him?

13 A I remember discussing them.

14 Q 275You knew the lands we were talking about?

15 A I would be more tuned in to the geographical location as opposed to --

16 Q 276The lands in Carrickmines, you know the lands we are talking about?

17 A I recall, yes.

18 Q 277Now, did you have a discussion with Frank Dunlop in connection with those
19 lands?

20 A Yes, I'm sure I did.

21 Q 278Where did that discussion take place?

22 A Oh, various locations I'm sure. I would have had a lot of contact with Frank at
23 the time and I understood he was acting for the promoters of that particular
24 project.

25 Q 279Perhaps you might start by telling the Tribunal when you first met Frank
26 Dunlop?

27 A Oh, I'd say it was late '80s. I would have met Frank Dunlop many, many years
28 ago in his role in Fianna Fail.

29 Q 280Tell us about what meetings you had with him in his role with Fianna Fail.

30 A They weren't specifically meetings. I would have just met him probably at the

1 Ard Fheis or various party conferences.

2 Q 281Did you know him on a first name basis to say "hello Frank" or --

3 A I would have known him, yes. One of his strengths was remembering people's
4 names, if I recall.

5 Q 282One of his strengths?

6 A Yes.

7 Q 283How about yours, were you able to remember his name?

8 A Well, I knew who he was. Any long-term member of the party would be fairly
9 familiar with all the senior officials.

10 Q 284From back well into the '80s, can the Tribunal take it that you knew Frank
11 Dunlop, and you knew him on a first name basis?

12 A Yes.

13 Q 285And you would meet him from time to time at Ard Fheiseanna, functions parts,
14 social functions, Cairde Fail gatherings, Bodenstown matters, events such as
15 this, would that be fair?

16 A Yes.

17 Q 286And your financial dealings with him were at a time when he was government
18 press secretary and when he was very much involved in Fianna Fail and in the
19 peripheries of Fianna Fail, if you like, with the Fianna Fail government. Now,
20 did you meet him when he took up a position in public relations after he left
21 his post as government press secretary and after he left his position as a
22 civil servant, as PR person attached to government departments?

23 A Yes, I did.

24 Q 287When did you first meet him when he took up, when he set up in practice as a PR
25 individual, roughly when?

26 A As I say, late '80s.

27 Q 288What dealings did you have with him? How did you again come in contact?

28 A Well, Frank had represented several clients who had proposals before the
29 council.

30 Q 289He was acting as a lobbyist?

1 A Yes.

2 Q 290 Seeking on behalf of various clients to have lands rezoned in County Dublin, is
3 that right?

4 A Seeking our support for that.

5 Q 291 He was seeking to have the lands rezoned on behalf of his clients?

6 A Yes, he was, that was his job.

7 Q 292 And he was coming to you and to others as a lobbyist to solicit your support
8 for the motions he was interested in?

9 A Yes, he was.

10 Q 293 Can you remember the first time you met him?

11 A No, I can't.

12 Q 294 Well, can you tell the Tribunal where you would meet him?

13 A Over a period of time?

14 Q 295 Yes.

15 A Initially I think I met him in around the council in O'Connell Street.

16 Q 296 Was he a regular attender at council meetings or the environs?

17 A He was quite a regular attender. Subsequent to that, his involvement in what
18 was Quarryvale, now Liffey valley, I met him on many occasions, sometimes in
19 his office, sometimes in the council and sometimes in nearby hotels, sometimes
20 in my office, sometimes at public meetings, on the site, I think, if I recall.
21 Yeah. Many different locations, many different times.

22 Q 297 And would you speak with him regularly on the telephone in connection with
23 these matters?

24 A Yes, yes.

25 Q 298 And was his purpose in visiting you in your office in Clondalkin to solicit
26 your support for motions in which he had an interest?

27 A That may have been his motivation, yes.

28 Q 299 That was -- presumably it was obvious what his motivation was, he was coming
29 out and asking or talking to you about his clients or a particular piece of
30 land that he was hoping to get rezoned?

1 A That would be right, yes.

2 Q 300And you never had any doubt about that, it was clear as a pikestaff, was it
3 not?

4 A It was pretty clear what Frank's job was, yeah. That didn't need to be
5 explained.

6 Q 301Did he ever ask you to sign a motion or to second a motion, a proposal -- I
7 should say, sign, second or propose a motion, any motion?

8 A No, I don't think so.

9 Q 302Now, would you tell the Tribunal what you remember about your discussions with
10 Frank Dunlop concerning the Carrickmines lands, the Paisley Park lands.

11 A Very little discussion about those lands.

12 Q 303Well, can you tell the Tribunal what you remember about them? Do you remember
13 discussing them because you have told us that you do, that you had meetings
14 with Frank Dunlop about them, you had discussions with him about them?

15 A Yes, I recall having discussions about him. What the actual content of the
16 discussion was, I couldn't be specific about.

17 Q 304Well, did he ask you to --

18 A As you can see yourself, you could guess what the context was. He would have
19 been extolling the merits of the project to me and I would have been listening
20 to him. That was quite a complicated proposal, as far as I recall, and --

21 Q 305What were the merits as he articulated them to you?

22 A Well, he would say that it was a prime development, a prime piece of
23 development land. It was well serviced by road and rail, all the normal
24 attributes that you would like to think a piece of development land which was
25 the subject for rezoning proposal was. He would have communicated those merits
26 to me.

27 Q 306Did you know the area well?

28 A Reasonably well.

29 Q 307Did you visit the land in order to evaluate whether or not his view of the
30 lands and their merits were justified?

1 A As far as I recall, we did, as a group, at one stage.

2 Q 308WWhen did that happen?

3 A In or around the time that we were deliberating on it.

4 Q 309And what view did you form about the, whether or not this was a prime piece of
5 development land?

6 A I shared that view.

7 Q 310What did you think about the rail services in the area?

8 A I felt they had potential for expansion.

9 Q 311Well, what do you mean by that? Does it mean that there would be greater
10 frequency or what do you mean by that?

11 A No, I think as far as I recall, that new lines would have to go in.

12 Q 312I see. When did you think -- what do you think about his suggestion that the
13 lands were well serviced by road and rail?

14 A My opinion on that would have been based around the critical mass of the
15 proposal. There are certain proposals which have such critical mass that they
16 can carry their own infrastructure and as far as I recall, in the case of
17 Carrickmines, that was the case.

18 Q 313We are talking about Paisley Park lands, 108 acres or thereabouts of Paisley
19 Park lands. Now, I was asking you what did you think about the rail services
20 that were available to serve those lands in 1992. Mr. Dunlop had extolled the
21 virtue of the rail service. He had told you that the lands were prime
22 development lands, well serviced by road and rail. You say that you had gone
23 out with other councillors to view those lands and I want to know what did you
24 think about Frank Dunlop's view that these lands were well serviced by road and
25 rail.

26 A I don't know whether I said that or not. They can be well serviced by road and
27 rail.

28 Q 314That is not what you have said, you have told the Tribunal that Frank Dunlop
29 told you that these were prime development lands well serviced by road and rail
30 and I want to know what your view was of his observation to you when you

1 visited the lands.

2 A You are quoting back to me what I said based on my recollection of a meeting
3 that took place nearly ten years ago.

4 Q 315Yes.

5 A I have only scant recollection of the meeting, of the meeting itself and now
6 you are querying me on the detail of what might have been said. You are going
7 to discourage me from being more specific by harping back and nitpicking what I
8 might have said.

9 Q 316I am not nitpicking, I am simply taking what you said were the virtues as
10 articulated by Mr. Dunlop. I am not asking you anything at this stage.

11 A That's my best recollection of it.

12 Q 317I wanted you to tell the Tribunal what your reaction was when you saw those
13 lands and in the context, adequacy of otherwise, of the roads services, the
14 road network in the area and the rail services in the area?

15 A Well, I wouldn't have based my decision on what Frank Dunlop told me in its
16 entirety. I would have accepted his representations and his lobbying. I would
17 have based my decision on the manager's report in general and anything that was
18 inaccurate in what was being told to me by a lobbyist would be borne out in the
19 manager's appraisal of the site. So if it wasn't serviced by road or rail or
20 there was a problem about it being serviced by road or rail, that would have
21 been, I'm sure, highlighted.

22 Q 318Mr. McGrath, I understood your evidence to be follows. Frank Dunlop solicited
23 your report for the rezoning of the Carrickmines lands, that's the Paisley Park
24 lands. In doing so, he told you that these lands were prime development lands,
25 well serviced by road and rail. You told the Tribunal that subsequently you
26 did a tour of the area with other councillors; is that right?

27 A I said as far as I recall.

28 Q 319All right. Well now --

29 A You may not --

30 Q 320What do you recall about the road network in the area?

1 A This was a rezoning proposal, was it?

2 Q 321Sorry?

3 A Was this a rezoning proposal?

4 Q 322Well, you supported it in 1992.

5 A It was a rezoning proposal?

6 Q 323Yes, it was.

7 A Well, when you are considering a zoning proposal, you are considering the land
8 in its entirety, in its location. You make an assumption about infrastructural
9 matters. If there's 108 acres being proposed for development in a prime
10 location, it's fair to assume that that is going to generate a critical mass
11 which will automatically demand infrastructural items such as rail and road.
12 That might be the reason why you accept somebody's lobbying that there will be
13 substantial rail and road infrastructural services, otherwise the development
14 couldn't operate without it. However, I would remind you they would be
15 planning permission issues and not necessarily zoning issues so councillors
16 wouldn't necessarily place a huge emphasis on those particular items at the
17 time of making the decision on zoning because they would be dealt with in quite
18 strong detail at the planning application time.

19 Q 324I see. So do I take it from that answer that you essentially see planning as
20 two distinct matters. There's the rezoning matter which takes place first,
21 irrespective of whether or not there's an infrastructure present, and then the
22 planning matter, which is intended to put in an infrastructure; is that
23 correct?

24 A Yes.

25 Q 325Is that how you see it?

26 A They are two distinct procedures; however, you don't zone land on the top of a
27 mountain. There's a bit of common sense involved.

28 Q 326Well that is what, among other things, this Tribunal is dealing with. And you
29 were aware, as you have said, that the view of the Minister as expressed in
30 1992 was that Dublin County Council was irresponsible in the way it was zoning

1 land where there was no finances available to provide infrastructure. It was
2 rezoning land and it was leaving the taxpayer to pick up the tab. You are
3 aware of that?

4 A I am aware he made those comments but I don't agree with them.

5 Q 327Now, who was going to pick up the tab for the provision of the infrastructure
6 to serve the Paisley Park lands, so far as you were concerned?

7 A That depends.

8 Q 328Who do you think was going to pick up the tab? Presumably that exercised your
9 mind when making the decision to vote in favour of rezoning of those lands?

10 A I would have thought it would have been mostly from development levies.

11 Q 329In other words, it would be paid by the developer, is that what you thought?

12 A To a large extent.

13 Q 330Well, who else would pay it?

14 A Well, it's the obligation of a local authority to provide services to all
15 development lands. Insofar as development, which is primarily of a private
16 nature, it's only natural that there would be an appropriate development levy
17 on those particular developments to contribute towards the cost of the services
18 to those lands.

19 Q 331Well, can the Tribunal take it that it is your understanding that where lands
20 are rezoned, that the funding for those lands is to be obtained from
21 development levies on the one hand and, what, the local authority on the other
22 hand?

23 A And the local exchequer.

24 Q 332And the local authority may well be drawing it from the exchequer?

25 A Yes.

26 Q 333Is it your view and has it been your view, once lands are rezoned, the local
27 authority has the duty to provide the infrastructure and services to serve
28 those lands?

29 A Well, a new population goes into --

30 Q 334That's not the question. The question is, is it your understanding and has it

1 been your understanding that when lands are rezoned, that the local authority
2 has a responsibility to provide services and an infrastructure for those lands?

3 A Yes.

4 Q 335So that the councils of which you have been a member, which have rezoned vast
5 tracts of Dublin County Council were encumbered with the responsibility of
6 providing services and infrastructure for lands that were privately-owned over
7 the years, is that right?

8 A I wouldn't use the word encumbered.

9 Q 336Well, they had a responsibility, a duty, a burden, call it what you wish?

10 A Yes, but the burden was defrayed by the increase in income that that local
11 authority had.

12 Q 337By?

13 A Well, number one, from development levies.

14 Q 338All right. Well, we'll talk about development levies for a moment.

15 A If I could finish?

16 Q 339Please.

17 A Councillors are very, very careful to make sure that a proposed development
18 stacks up financially. And most of these or all, I should say, of the larger
19 developments which were passed at that time have significant commercial element
20 in them, which are now there today, thankfully surviving, and contributing to
21 the national exchequer and directly contributing to the local authority by way
22 of the payment of rates. So it's an economical cycle.

23 Q 340Tell me this, who pays development levies?

24 A The developer pays them.

25 Q 341Who pays the developer the development levies?

26 A His customers.

27 Q 342And who are his customers?

28 A Whoever, you know.

29 Q 343The taxpayers, isn't that right?

30 A Yes, I don't see a problem with that.

1 Q 344 So the taxpayer funds it all. The taxpayer funds it all by paying it through
2 to the local authority in part and by paying it in the costs of the houses that
3 they buy insofar as the balance is concerned, isn't that right?

4 A Yes, but that applies to anywhere that development takes place.

5 Q 345 That's right. And who profits from that?

6 A We all profit from it.

7 Q 346 Even the innocent developer?

8 A The developer profits if he does his sums right.

9 Q 347 When you say 'we all' profit from it, who do you mean?

10 A The community, the new community that --

11 Q 348 Do you think that the young couple trying to buy a house at two or 300,000
12 pounds in County Dublin at the moment profit from it?

13 A The young people trying to buy a house at the moment would be probably in a
14 worst position had some of the decisions that we took back in early 1990s not
15 been taken.

16 Q 349 Mr. McGrath, to come back to the Paisley Park lands, did you visit the Paisley
17 Park lands?

18 A I do recall going out there, yeah.

19 Q 350 Now, what do you think of the road structure in the area?

20 A I didn't enter on to the lands.

21 Q 351 What do you think of the road structure in the area?

22 A In the area of the Paisley Park lands?

23 Q 352 Yes.

24 A In the context of servicing the lands or in the existing --

25 Q 353 Just a simple question, what do you think of the road structure in the general
26 area of the lands?

27 A I honestly don't recall at this stage.

28 Q 354 Did you not address your mind to that very important issue before you decided
29 to vote for or against the proposal?

30 A Oh yes, I did.

1 Q 355And having addressed your mind to that, what conclusion did you come in?

2 A I concluded that the lands could be quite easily serviced.

3 Q 356How?

4 A By rail and road.

5 Q 357And who was going to finance this?

6 A As we said before, a combination of the developer and the local authority.

7 Q 358What did you think about the road network as it existed at the time of your
8 visit?

9 A Well, there was no road network on the lands at the time.

10 Q 359Was there any access to the lands from the public roads at that time?

11 A I am sure there was but probably for farming or other reasons only.

12 Q 360Pardon?

13 A I am not sure what access there was to the lands, yeah. If I had known I was
14 going to be asked in this much detail about that particular file, I would have
15 taken the trouble --

16 Q 361If you had read some of the transcripts, you might have been aware of the -- in
17 any event, you were asked by Mr. Dunlop to support this motion and you were
18 asked and you met him on a number of occasions to talk about it, is that
19 correct?

20 A No, that wouldn't be correct.

21 Q 362How many conversations did you have with him?

22 A Well, I would have bumped into him on many an occasion and he would have raised
23 the matter with me. I didn't meet him specifically to talk about it.

24 Q 363Do you remember seconding the proposal in relation to the motorway and in
25 relation to a map which was produced by the manager in May of 1992? Do you?

26 A If it's there, I did, yes, if I seconded a motion, I did.

27 Q 364I am asking you, do you remember doing it?

28 A Yes, I think I do, yes.

29 Q 365Can you remember what your motivation in seconding that was?

30 A Yes, as far as I recall, we concluded that there was a more desirable

1 diagrammatic line for that road than the one being proposed by the manager.

2 Q 366What was -- what made you think that one line was more desirable than another,
3 what information did you have or what representations had been made to you
4 about the line?

5 A I can't specifically recall.

6 Q 367Well that was a line that was going to affect effectively part of the M50, the
7 area of the Southeastern Motorway. What caused you to vote or to support a
8 particular proposal at that time?

9 A Because I felt it was a better route.

10 Q 368Did anybody lobby you about the rezoning of the, sorry, realignment of the
11 motorway route?

12 A I think it was pointed out to me that the route being proposed prior to our
13 amending it was going to isolate a certain piece of land which would then be
14 landlocked. I think that was the proposal with it and it didn't make sense to
15 do that.

16 Q 369Who made that representation to you?

17 A I don't recall. I think we just gleaned that from the manager's report.

18 Q 370Whose land was going to be landlocked?

19 A I don't know, land ownership is not a consideration.

20 Q 371Did Mr. Dunlop make any representations to you at that time about that, the
21 line of that motorway?

22 A He may have. I can't say he specifically did but he may have.

23 Q 372Did you ever meet Mr. Jim Kennedy?

24 A Not in that context.

25 Q 373Did you remember meeting Mr. Jim Kennedy?

26 A Many years ago, yes.

27 Q 374Do you know Mr. Jim Kennedy?

28 A Only as the owner of the Laurels pub.

29 Q 375Where is the Laurels pub?

30 A Clondalkin.

1 Q 376Did you frequent his premises from time to time?

2 A Yes.

3 Q 377So you knew him well?

4 A No, I didn't know him well.

5 Q 378Did you meet him subsequently, subsequent to his selling the Laurels pub?

6 A No.

7 Q 379Did you know he was a developer in the Lucan area?

8 A No, I didn't know that.

9 Q 380Did you know that he built houses in Lucan?

10 A I know it now but I didn't know then.

11 Q 381Did you know that he had been involved in the building of the sewers and

12 surface water sewers in the Newcastle Road area?

13 A Not then, no.

14 Q 382When did you find that out?

15 A Just in recent newspaper articles.

16 Q 383Did you have many discussions or dealings with Mr. Kennedy in 1992 in

17 connection with his land?

18 A No.

19 Q 384Did he telephone you or meet you or write you in connection with the lands at

20 Carrickmines or any other lands?

21 A No, he didn't.

22 Q 385Did he know you on a first name basis?

23 A I doubt it.

24 Q 386Did you know him on a first name basis?

25 A No.

26 Q 387Did you ever meet Mr. John Caldwell?

27 A No.

28 Q 388Did you have any telephone conversation with him, discussion or write to him or

29 communication with him of any description?

30 A No.

1 Q 389When speaking to you about the 108 acres of Paisley Park lands, did Mr. Dunlop
2 tell you who was going to proposes it and second it?

3 A No.

4 Q 390Did you ask him?

5 A No.

6 Q 391Would it not be important to have an idea of what the views of the councillors
7 for the area would be in relation to the lands in question?

8 A Yes, it was important.

9 Q 392Did you find that out?

10 A Yes, probably at our group meeting and then from general discussions, yes.

11 Q 393What was said at the group meetings about these lands?

12 A I think the conclusion I came to from discussions, that they were eminently
13 suitable for development.

14 Q 394Who told you that?

15 A That's a conclusion I drew myself.

16 Q 395What was said at the meeting which caused you to come to that conclusion?

17 A Nothing specifically that was said at the meeting, it was just looking at the
18 report, the location, potential for the lands and we felt that there would be a
19 very good demand for any development that took place there.

20 Q 396Well, do you think that the manager's report was one that you could support and
21 would confirm a view that Mr. Dunlop had expressed that this was prime
22 development land capable and suitable for development?

23 A I didn't necessarily make my decision based on the manager's report.

24 Q 397What did the manager report?

25 A I don't recall specifically what he reported.

26 Q 398May I have page 443, please, of the Carrick brief. Can you remember who
27 proposed the motion in relation to the lands?

28 A No, I don't recall who proposed it.

29 Q 399Well on the screen in front of you, you will see an excerpt from the minutes of
30 Dublin County Council, meeting held on the 12th June 1992, it's lands at

1 Carrickmines representation number 000972, Paisley Park Investments Limited and
2 the following report by the manager was read.

3

4 "These lands are located southeast to the motorway as shown on the draft plan."

5 A Southwest.

6 Q 400 Pardon?

7 A Southwest.

8 Q 401 I beg your pardon, I am sorry, southwest. "These lands are located southwest
9 of the motorway as shown on the draft plan. The only access is from the narrow
10 cul-de-sac roadway leading from the Carrickmines golf course. To provide
11 access for industrial development would require a junction on the motorway and
12 such a junction would not be warranted in the circumstances. Even if direct
13 access could be provided on to the Glenamuck Road, it would be unacceptable in
14 view of the substandard nature of the Glenamuck Road and the amount of traffic
15 generated by the proposed development.

16

17 The western portion of the site is unsuitable for industrial development due to
18 the steep contour and exposed nature of that part of the site. In view of the
19 isolated location of the lands and difficulty of access and having regard to
20 decisions already taken by the council in relation to adjoining lands, the site
21 is not an appropriate location for industrial development. It is recommended
22 that this motion be not passed."

23

24 Now, that motion or that manager's report was, as it were, answered or reached
25 by a proposal by Councillor Lydon, seconded by Councillor Hand that Dublin
26 County Council hereby resolves that the lands at Carrickmines outlined in red
27 on the attached map comprising about 108 acres which have been identified by
28 the proposer be zoned E in the Development Plan to provide a high quality job
29 creation base for South County Dublin. Following which discussions,
30 Councillors Lydon, Hand, Breathnach, Fitzgerald, Gilmore, Barret, Keogh,

1 Callaghan, Gordon, Healy, Cass, Smith and Butler contributed, the manager
2 replied to questions raised by the member. The motion was put and on a
3 division, the voting resulted as follows. For: 24. Against: 26 and
4 abstentions: One and perhaps we'll scroll down a little please on the next
5 page. You see you were one of those councillors who voted for the motion and
6 effectively against the manager's report, isn't that right?

7 A That's right.

8 Q 402 Now, would you please tell the Tribunal the factors which you took into account
9 which led you in the performance of your quasi judicial function as a member of
10 Dublin County Council to reject the manager's report in relation to those
11 lands?

12 A Well the manager was only offering physical and technical reasons as to why the
13 development shouldn't proceed there. None of which were insurmountable. So it
14 wasn't a good enough basis not to zone those lands. They were eminently
15 suitable for development and any of the obstacles which the manager foresaw had
16 an engineer solution to them, which is evidenced by the fact that the lands are
17 now or have been developed without any problem.

18 Q 403 Did you consider that you had a quasi judicial function in considering the
19 rezoning of lands and in the making of a new Development Plan?

20 A We were all aware of that.

21 Q 404 You had been told on many times by the council officials?

22 A Yes, the zoning of land in the member's sole prerogative.

23 Q 405 It is indeed. What do you understand your duty and responsibility was in
24 carrying out your quasi judicial function in the review of the County
25 Development Plan? What did that mean, in other words?

26 A How do you mean what did it mean?

27 Q 406 You had a quasi judicial function, what did that mean that required you to do
28 or not to do as the case may be?

29 A As elected members of the council, we were empowered to adjudicate on all these
30 proposals.

1 Q 407Is that true?

2 A Based -- to inform ourselves to the best of our ability about the merits or
3 demerits of them, pros and cons, to take into account all the information that
4 we were given by the manager.

5 Q 408Right.

6 A The professionals acting on behalf of the proposers or land owners or
7 development company or whatever and then on our own experience and intuition, I
8 suppose you could put it that way and then to make a decision.

9 Q 409All right.

10 A We would also factor in an examination of current trends on the development of
11 the county, vis-a-vis what was happening over the last previous five to ten
12 years and very often it was the case that we recognise that lands had been
13 previously zoned which were not developed after a long period of being zoned.
14 We had to ask ourselves why was that happening. Why was there no demand for
15 development in those areas and we had to come to conclusions about that and in
16 some cases we concluded that those lands were inappropriately zoned or weren't
17 zoned in the right place so they would be the general parameters around which
18 we would make a decision.

19 Q 410But the burden or the responsibility of providing services and infrastructure
20 for those lands that had been inappropriately zoned still remained with the
21 Dublin County Council; is that right?

22 A Yes but --

23 Q 411And notwithstanding that burden or responsibility remained with the Dublin
24 County Council and notwithstanding that the planners had strongly recommended
25 against significant or substantial further rezoning, you and the other members
26 of the Dublin County Council did, in fact, rezone substantially more lands than
27 you were recommended to do in 1992 and 1993; isn't that the truth?

28 A Well, to take your question in the way it came. First of all, there was no
29 financial burden on the local authority in relation to the provision of
30 infrastructure to lands which were not developed. Because if development did

1 not proceed on them, then the infrastructure did not go in.

2 Q 412I thought you told me that the responsibility and told the Tribunal that there
3 was a responsibility, once lands were rezoned, there was a responsibility on
4 the local authority to provide infrastructure and services to those lands?

5 A Ultimately, there is.

6 Q 413Ultimately.

7 A But you couldn't put in roads and rail lines if there's going to be no
8 development there; in other words, if no principal, no developer has expressed
9 a strong interest with proceeding with development of the lands --

10 Q 414Just to be clear on this. Assume for a moment that you take four parcels of
11 land in north -- in the county. One in the Fingal -- three parts of lands.
12 One in Fingal, one in south Dublin and one in Dun Laoghaire/Rathdown and they
13 had been, as you describe it, inappropriately rezoned. There was a duty, as I
14 understand your evidence, on Dublin County Council to provide roads and
15 infrastructure if the owners or developers of those lands started development;
16 isn't that right?

17 A Yes.

18 Q 415And there was no basis on which Dublin County Council could realistically or
19 legitimately refuse planning permission without leaving them open to
20 substantial claim for compensation, isn't that right?

21 A At the time I think that was the case, yes.

22 Q 416So, the triggering factor in each of those cases in respect of each of those
23 three parcels of 100 would be the decision of the respective developers to
24 commence development.

25 A Yes.

26 Q 417And if the developers of these inappropriately rezoned lands ever decided to
27 start development, then the duty and the responsibility of Dublin County
28 Council was to provide the infrastructure or part finance the infrastructure.

29 A Yes, that would be my understanding.

30 Q 418And that was an overhanging duty, overhanging responsibility that existed when

1 you and your other councillors and the other councillors were reviewing the
2 County Development Plan in the period 1991 to 1993 inclusive; isn't that so?

3 A Yes, it would have been a consideration.

4

5 JUDGE KEYS: Mr. McGrath, I wonder could I just ask you a question. You said
6 earlier on in reply to being approached by Mr. Dunlop for support for the
7 Paisley Park development that you would not just bear in mind what he would say
8 in relation to the development as to whether would vote in favour of it or not
9 but rather you would base mainly your decision on the manager's report. That's
10 your evidence which you have given.

11 A I said I base it mainly on the manager's report and I don't know the
12 information supplied to us by the professionals.

13

14 JUDGE KEYS: Which would obviously be given to manager which he would have in
15 preparing his report when debating the merits of the motion before the council
16 at the time; isn't that correct?

17 A That the manager would have the outside professionals information too? Is that
18 what you are saying?

19

20 JUDGE KEYS: He would have his own professionals advising him, isn't that
21 right?

22 A It is, yes.

23

24 JUDGE KEYS: Who would have equal status in expertise as any outside experts
25 would have had who might be advising Mr. Dunlop; is that right?

26 A Yes, but they may have different views.

27

28 JUDGE KEYS: And you would also have outside submissions as well. Now you
29 said when you were approached by Mr. Dunlop and queried by Mr. Gallagher that
30 at the end of the day you would mainly decide whether you'd go for it or not

1 would be based entirely on the views of the manager's report; is that your
2 evidence?

3 A Well, I can't recall specifically saying that.

4

5 JUDGE KEYS: Yes, you did, because I noted it down and we can go back in the
6 transcript as well and yet when this motion came up on the 12/6/92, the
7 manager, very firm words, advised to reject rezoning in this area and yet you
8 didn't go along with your general principle, which I think you are saying is
9 that you mainly make decisions on what the manager's report contains. Was
10 there somebody else interested

11 A Can we go back to where you said it?

12

13 JUDGE KEYS: We can do it at two o'clock, we will have time to go back on
14 that.

15 A Ok, what would be more accurate would be just what I said a few minutes ago, we
16 would take everything into consideration.

17

18 JUDGE KEYS: That's not what you said.

19

20 CHAIRMAN: Perhaps at two o'clock, Mr. McGrath might be given the opportunity
21 of looking at exactly what he said because it is a little while ago now. We'll
22 rise until two o'clock.

23

24 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

25

26

27

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30

1 THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

2

3 MR. GALLAGHER: Mr. McGrath please.

4

5 MR. MCGRATH RETURNS TO THE WITNESS BOX AND CONTINUES

6 TO BE EXAMINED BY MR. GALLAGHER AS FOLLOWS:

7

8 JUDGE KEYS: Mr. McGrath, I am not sure whether you have had time to read the
9 transcript and the point I had raised before lunch and if you look at page, the
10 bottom of page 47 I think which is the question 315, "I want you to tell the
11 Tribunal what your reaction was when you saw those lands and in the context,
12 adequacy or otherwise, of the road services the road network in the area and
13 the rail services in the area." And your reply to that was "Well, I wouldn't
14 have based my decision on what Frank Dunlop told me in its entirety. I would
15 have accepted his representations and his lobbying. I would have based my
16 decision on the manager's report in general and anything that was inaccurate in
17 what was being told to me by a lobbyist would be borne out in the manager's
18 appraisal of the site, so if it wasn't serviced by road or rail or there was a
19 problem about it being serviced by road or rail that would have been, I'm sure,
20 highlighted."

21

22 Now the point I was making before lunch was that it appears to me that you laid
23 down the criteria where you made a decision whether you would support or reject
24 a motion and that one of the main basis which would have a very influential
25 effect on your decision would be the manager's report and if one reads the
26 manager's report which was issued on that day, there was very strong language
27 to reject any proposal zone these lands, and despite what was contained in that
28 report, you voted in the opposite, the opposite way. And that appears to be
29 contradiction on your evidence to date, so that's the point I was making, so
30 can you explain the contradiction?

1 A. Yes, I can. Well firstly, if you go back to the previous page, you will see
2 where myself and Mr. Gallagher were in an exchange in relation to
3 infrastructural detail vis-a-vis road and rail. That's when it came to the
4 point where I made reference to the manager's report. Whether one agrees with
5 the recommendation of a manager's report or not, which is usually in the last
6 paragraph of his report, the recommendation of the manager, what is very
7 beneficial from a manager's report is that it contains factual information in
8 relation to the topography of the land, what services are there or not, and a
9 general description of how the manager perceives the lands to be from a future
10 development point of view. That is always taken into account. That's why I
11 used the expression in general. We all rely on the manager's report to inform
12 us, in general, about the site. We do not necessarily accept the
13 recommendation in the manager's report.

14
15 JUDGE KEYS: I can understand you saying that that you don't necessarily
16 accept the recommendations but my understanding of your evidence prior to lunch
17 was simply that the manager's report formed one of the main reasons that would
18 persuade you whether to vote in favour or reject a motion for rezoning, and
19 that manager's report, as I understand it, is based on technical and expert
20 evidence from his experts and other people who may have made submissions during
21 the course of the Development Plan as such. And with that knowledge, he comes
22 out with a recommendation and your evidence is that you would -- obviously that
23 would have an influential effect on the manner in which you would vote, and
24 despite the strong wording of this report, you voted the opposite way. I just
25 can't understand that, unless you had in your possession expert evidence or
26 reports from the lobbyist Frank Dunlop which would persuade you otherwise.
27 Otherwise it just doesn't make sense that you would vote in favour of the
28 motion.

29 A. Yes, I can explain that. I would vote in favour of a motion if I did not
30 accept the manager's --

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JUDGE KEYS: What basis did you reject the manager's report in this situation?

A. I'm trying to explain. I did not accept the manager's suggestion that these lands presented a difficulty from an infrastructural or technical point of view.

JUDGE KEYS: How did you know that?

A. That's what the manager was saying.

JUDGE KEYS: But how did you know he was wrong in that?

A. For two reasons. One, because I would have been in possession of evidence from the proposer's professional advisers.

JUDGE KEYS: What evidence did you have?

A. I am sure I had an engineer's report.

JUDGE KEYS: Whose engineer? What was the name of the engineer?

A. I couldn't tell you sitting here, but I can come back to you on that.

JUDGE KEYS: When? This is important, you are laying down the basis of where you support a motion, you are now saying that you had outside or external, if you want to call it that, expert evidence to contradict the manager's report. Now, where is that documentation and when can you get it and produce it to the Tribunal?

A. I will have to go seeking it obviously. And then again, that wouldn't be the entire basis on which one would make a decision. We are talking about zoning here, not planning.

JUDGE KEYS: Who gave you the engineer's report?

A. It would have come in the post, I would say.

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JUDGE KEYS: From who?

A. From the engineer's office.

JUDGE KEYS: Yes, and who engaged that engineer to send you on the report?

A. The landowner or the -- or Mr. Dunlop's office, one or the other.

JUDGE KEYS: I see. And you obviously would have that at home at this stage, wouldn't you, with your documentation?

A. No, I doubt it very much. I wouldn't keep stuff that long.

JUDGE KEYS: I see. So it is your evidence that you, on this occasion, you had receipt of an engineer's report which in essence contradicted the advice which the manager had contained in his report which he had obtained from expert witnesses also, or expert --

A. Sorry to cut across, my evidence is, presumably I would have it.

JUDGE KEYS: Presumably. I see.

A. Because that was common practice at the time.

JUDGE KEYS: But you would have -- you would have an opportunity in the meantime just to check to see if you have that documentation?

A. I hope to, it should be easy enough trace back who were the professional advisers on that proposal at that time and we'll be able to see what they had to say.

JUDGE KEYS: Right. Thank you.

Q.419MR. GALLAGHER: Mr. McGrath, I just want to be clear on what you are saying.

1 Is it your evidence that before you voted on the motion to rezone the 108 acres
2 of Paisley Park land on the 12th of June of 1992, you had been furnished with
3 an engineer's report which set out reasons why the lands should be rezoned --
4 is that your evidence?

5 A. I am not saying that emphatically --

6 Q.420 So the answer is, are you saying -- do you -- were you or were you not
7 furnished with an engineer's report setting out reasons why the lands should be
8 rezoned, the answer to that is yes or no?

9 A. No, I am sorry, it's not yes or no because I have said presumably already. I
10 am saying to you now that it is likely that I was. I can only give you my best
11 guess, recollection.

12 Q.421 Whose report did you receive and did you take into account in voting against
13 the manager's report and in favour of the rezoning of those lands?

14 A. That information I will have to come back to you on. I don't recall the
15 engineering company's name, there may have been more than one.

16 Q.422 Can you recall anything that was said by any engineer in favour of the proposed
17 rezoning?

18 A. Not at this moment in time, no.

19 Q.423 You see I must suggest to you that there was no such report. No such report
20 has been discovered to the Tribunal, no witness to this Tribunal to date has
21 given any indication that there was any conflicting or contradictory engineer's
22 report setting out reasons why these lands should be rezoned.

23 A. That may be the case.

24 Q.424 Now, if that is the case -- well perhaps we just look at the minutes of the
25 meeting and we'll see what they say about what happened on that occasion.

26
27 You knew before the meeting, perhaps we can have page 443 of the Carrick 1
28 brief please. This is a copy of the minutes of the meeting of the 12th of June
29 of 1992. You knew before that meeting, as did all other councillors, that
30 Councillor Lydon was proposing a motion to be seconded by Councillor Hand that

1 the entire of the Paisley Park lands would be rezoned; isn't that right?

2 A. I knew what the content of the motion was, yeah.

3 Q.425You would have received that before the meeting?

4 A. Yes. In an agenda format.

5 Q.426Yes. And you would have discussed it as a matter of probability at the meeting
6 of the Fianna Fail party in Conway's hotel, Conway's licensed premises before
7 that meeting on that date.

8 A. Yes, most likely, yes.

9 Q.427Had you received the manager's report before the meeting in Conway's?

10 A. No.

11 Q.428No. But you did know what the manager was saying because his report was read
12 at the meeting and presumably copies of his report were circulated at the
13 meeting?

14 A. Yes.

15 Q.429So when you and your colleagues came to discuss this proposed motion, you knew
16 that the manager was opposed to the rezoning of the lands?

17 A. Yes.

18 Q.430Now I put it to you that at that stage the only knowledge you had of the lands
19 was what the knowledge you had gleaned from Mr. Dunlop in making
20 representations to you, and whatever knowledge you had gleaned at the meeting
21 of the Fianna Fail councillors in Conway's licensed premises.

22 A. No, I would have had more knowledge than that.

23 Q.431What more knowledge did you have of that?

24 A. I would have understood the location of the lands.

25 Q.432Well, what did you tell us about the location of the lands?

26 A. I felt they were, as I said earlier, I felt they were eminently suitable for
27 development.

28 Q.433In their totality?

29 A. Yes.

30 Q.434I see. What -- would you tell the Tribunal what are the roads that bounded

1 these lands?

2 A. What do you want to know about them?

3 Q.435Well, tell us what roads, where were they situated, for example?

4 A. Well, I know where it is situated.

5 Q.436Well --

6 A. I wouldn't know the names of the roads around it. That would -- probably the
7 most important criteria in determining the zoning of those lands was because of
8 the proximity to the heavy density population centres in the Dun
9 Laoghaire/Rathdown area where there was very little land available for the
10 expansion of the population. That that was the most important criteria for
11 Carrickmines.

12 Q.437How close were these lands to the Ballyogan Road?

13 A. I couldn't say.

14 Q.438How close were these lands to the Brennanstown Road?

15 A. Probably bordered by it.

16 Q.439No, they weren't.

17 A. I am not sure.

18 Q.440I see.

19 A. I already said --

20 Q.441Why don't you say that? How close were they to the Glenamuck Road?

21 A. I can't say.

22 Q.442Do you know what end of the Glenamuck Road they are?

23 A. Obviously not, if I don't know where the Glenamuck Road is.

24 Q.443Do you know how long the Glenamuck Road is?

25 A. Nope.

26 Q.444If I told you it was at least a mile in my estimation, does it mean that you
27 don't know the location of the lands by at least a mile?

28 A. I do know the location of the lands. But I think it is unfair --

29 Q.445Tell the Tribunal where they are then?

30 A. That's an unfair way to approach it --

1 Q.446If it is --

2 A. I couldn't tell you the length of a road in Clondalkin.

3 Q.447Pardon -- tell us how you approach those lands, tell us the roads by which you
4 approach those lands.

5 A. The roads that you approach this land then or now?

6 Q.448The lands are still the same position, how would you approach the lands?

7 A. Well I would go over the M50.

8 Q.449To where?

9 A. As far as you can go to --

10 Q.450I see, how far is that at the moment?

11 A. Dundrum.

12 Q.451Okay. How would you get from there out to the lands?

13 A. I would go out the far side of Sandyford, I think.

14 Q.452Yeah, how far? How would you get to them from the far side of Sandyford, from
15 Sandyford?

16 A. You would come back probably down the Brennanstown Road.

17 Q.453Down the Brennanstown Road from where? You come to the end of the M50 at
18 Dundrum?

19 A. It depends on the way you go to it.

20 Q.454Are you coming from Clondalkin or County Kildare in the Naas Road and down the
21 M50 to Dundrum? Now, how do you get from there to the lands, you know, where
22 the M50 ends at Dundrum?

23 A. I do, yes.

24 Q.455Now would you tell the Tribunal how you get from there to the lands?

25 A. Well, that's depending on my driving skills.

26 Q.456Just don't worry about your driving skills, just tell us about the route.

27 A. I wouldn't know the names of the roads.

28 Q.457Well?

29 A. I would just be in the habit of following the same route one is familiar with.

30 Q.458Okay. Tell us what, you come to the end of the road, you come onto the Dundrum

1 Road, you know the Dundrum Road?

2 A. Yeah, sort of, yeah.

3 Q.459Sorry?

4 A. I do sort of, yeah. If it's the main Dundrum Road.

5 Q.460Yeah, all right.

6 A. From Goatstown out, is that what you mean?

7 Q.461You come down the M50 and you want to get to these lands, you come down
8 effectively to a T junction at the Dundrum Road. Now, would you tell the
9 Tribunal do you turn left or right there or -- and where are you, how you
10 progress from that on?

11 A. I would imagine you turn right.

12 Q.462You turn right, okay. Where do you go from there?

13 A. I am not quite sure now, you would have to show me a map.

14 Q.463No -- Councillor McGrath you, are a councillor who was supporting this rezoning
15 of these lands because they were eminently suitable for development.

16 A. Yes.

17 Q.464Because 108 acres were suitable for development in your view?

18 A. Yes, that's right.

19 Q.465And you were voting for this in the teeth of a very strong recommendation from
20 the manager that these lands were not suitable for development or for rezoning
21 and I am asking you to take, explain to Tribunal how you knew that these lands
22 were so suitable for development and one way of explaining that would be to
23 explain how you get there and what the road network adjoining those lands was.

24 A. I don't agree with you.

25 Q.466You don't agree?

26 A. No. I don't think it's necessary to have an intimate knowledge of the roadways
27 in the vicinity of the these lands.

28 Q.467Do you think it's necessary --

29 A. I am not finished. I would have looked at the map, the location of the lands,
30 the proximity to the city, proximity to centre of population in Dun

1 Laoghaire/Rathdown, Dundrum and other areas in the general vicinity, I wouldn't
2 have made it my business to intimately get to know each individual road
3 surrounding the land.

4 Q.468 I see. Are you saying then you based your decision and decision to vote on
5 looking at the map of County Dublin?

6 A. That's part of my decision.

7 Q.469 Why did these lands commend themselves to you for rezoning over and above any
8 other lands in South County Dublin?

9 A. I didn't -- they didn't commend themselves to me over and above any other
10 lands, I regarded them as suitable for development because of their location.

11 Q.470 Because of their location. Tell me this, were there any lands or any proposal
12 to rezone lands in County Dublin against which you voted when the Development
13 Plan was being reviewed?

14 A. Not that I can recall.

15 Q.471 Does it follow therefore that you supported every rezoning proposal in County
16 Dublin during the review of the County Development Plan in the early 1990s?

17 A. Most likely, yes.

18 Q.472 And did you form the, your view about the suitability of the rezoning of all
19 those many, many acres of lands based on a view of the, their location based on
20 an examination of the map of County Dublin?

21 A. Partly so, yes.

22 Q.473 Now, coming back to the meeting of the 12th of June of 1992, you would confirm,
23 I take it, that the minutes accurately set out what happened at the meeting?

24 A. That the minutes we looked at earlier?

25 Q.474 The minutes -- I take it that generally speaking that the minutes of the
26 meeting accurately reflect what's said at the meeting and what happens?

27 A. They do generally reflect it, yes.

28 Q.475 All right. Now let's look at what happened at this meeting. The matter of the
29 Paisley Park motion was called and the manager's report was read. And to the
30 best of the, so far as this Tribunal is concerned there were no other reports

1 available or circulated from engineers or town planners in relation to those
2 lands. We look at what the manager said. He said, "The lands are located
3 southwest of the motorway as shown on the draft plan." What was the
4 significance from your point of view, as a person charged with responsibility
5 for the planning proper planning and development of Dublin County, what was the
6 significance of the fact that the lands are to the southwest of the motorway as
7 shown on the draft plan? Did that have any significance?

8 A. The only qualification the manager puts on it is the only access is from a
9 narrow cul-de-sac.

10 Q.476No, no. Take the first sentence. "The lands are located southwest of the
11 motorway shown on the draft plan." Did that have any significance?

12 A. Only insofar as sometimes managers or planners use large physical parameters to
13 put down a marker as to --

14 Q.477Demarcate, yes?

15 A. Demarcate, yes, yes.

16 Q.478Do you think that, generally speaking, is a good thing?

17 A. Generally speaking, yes, but not always.

18 Q.479So here was something that, generally speaking, you would say was a good thing,
19 he was indicating that there was going to be a motorway and that this, these
20 lands would be, as it were, outside the line of the motorway, outside the line
21 of demarcation, isn't that what he was saying?

22 A. That's what he was saying, yes.

23 Q.480That's right. Now you believe that line of demarcation, generally speaking, is
24 a good thing?

25 A. Generally speaking.

26 Q.481Now, given that you voted against the manager's report, what features, what
27 matters did you take into account which lead you to believe that the particular
28 instance with which you are dealing here, that the general principle should not
29 be followed?

30 A. Because I obviously came to the conclusion that the general parameter or

1 demarcation line which had been probably considered ten years previously would
2 eventually be breached by the expanding population.

3 Q.482 This is a line of a motorway as shown on the draft plan, not on the 1983 plan.

4 This is something that you and your colleagues had adopted as a proposal in the
5 draft plan and you are now having worked and considered at great length on the
6 working papers, you are now taking steps which were effectively to set that at
7 naught?

8 A. I wouldn't agree with that.

9 Q.483 He told you that the only access is from the narrow cul-de-sac roadway leads to
10 the Carrickmines golf course. Now what effect did that statement have on your
11 thinking about the rezoning of the lands that Mr. Dunlop was so anxious to have
12 rezoned?

13 A. That was irrelevant.

14 Q.484 It was irrelevant?

15 A. Yeah.

16 Q.485 Could I have the -- these -- have you ever travelled along the cul-de-sac in
17 question?

18 A. Inadvertently maybe, but not to any purpose.

19 Q.486 Not to your knowledge. You see on screen here, this is the cul-de-sac we are
20 referring to, this is the road now that was going to lead -- this is the only
21 access road leading to the 108 acres and you see I think a field, gate, on your
22 right which is the access to the lands. Now, Councillor McGrath, you were
23 voting to rezone 108 acres, 108 acres in which Frank Dunlop was interested and
24 this was the access to it.

25 A. Do you want me to comment on that?

26 Q.487 Do you accept that the only access from the lands is a narrow cul-de-sac
27 roadway leading to Carrickmines golf course, do you see that?

28 A. I see that. What I see is an attempt by you to ridicule our decision on the
29 basis that there is only a small narrow road approaching.

30 Q.488 I am not seeking to ridicule --

1 A. When you know full well that a zoning proposal is not based on the existing
2 inadequate road infrastructure in the area, it's not what's serving it then at
3 the time of the proposal, it's what's possible to be put in in the future. You
4 don't honestly expect me, you think that I thought at the time that there was
5 going to be 108 acres served by a substandard road like that?

6 Q.489 Well, Mr --

7 A. That's to insult my intelligence.

8 Q.490 All right. We'll go on just a small bit and we'll see. The manager goes on to
9 say to you as follows. "To provide access for industrial development would
10 require a junction on the motorway and such a junction would not be warranted
11 in the circumstances." Now did you consider that a junction would be warranted
12 in order to serve those lands?

13 A. I possibly did.

14 Q.491 Well, how else were they to be served except by a junction? That's what is the
15 manager said, he was telling you there was a cul-de-sac you have just seen on
16 screen now. Now, he says if they are going to be served, they are going to
17 have be served by an additional junction on the motorway.

18 A. I had no difficulty with that.

19 Q.492 Did you accept, did you investigate that as whether or not, or did you ask any
20 questions as to whether a junction could be provided?

21 A. It was a logical engineering solution.

22 Q.493 Did you ask how much it was going to cost?

23 A. I didn't, maybe somebody else did.

24 Q.494 Did it not concern you that public funds would have to be spent on the
25 provision of a junction at that location?

26 A. It wasn't a major concern in the decision-making process.

27 Q.495 Well, in fact, isn't it the junction that has caused so much problems in
28 Carrickmines in recent times, that is the junction that has had to be provided
29 at that location?

30 A. Well -- I didn't disagree that the junction should be provided.

1 Q.496But did you inquire as to the cost?

2 A. When you are dealing with a zoning motion, costs are so far down the line that
3 it would be difficult to, you know, to deal in the costings.

4 Q.497I take it that you would want this Tribunal and you would want your
5 constituents to take the view and to come away with the view and find perhaps,
6 finding it necessary that you adopted a sensible and considered approach to
7 this particular motion?

8 A. Is that a question? Sorry.

9

10 JUDGE MAHON: Yes. Mr. Gallagher wants to know was it, or he is suggesting to
11 you that surely it is of importance to you that somebody hearing this evidence
12 would want to be satisfied that you had approached this in a considered way
13 before making a decision to vote for or against.

14 A. Oh yeah, that's fine. Yeah.

15 Q.498MR. GALLAGHER: Did you approach it in that way?

16 A. I did, yes.

17 Q.499Well if you did, what consideration did you give to the size of the junction
18 that would be required and the cost of the junction?

19 A. I can't recall that the cost of the junction was ever mentioned.

20 Q.500Did you consider whether or not, for example, it might require the demolition
21 of houses in the area to provide a junction to provide access to those lands?

22 A. I have to bring you back to what I keep repeating but seems to be lost on you
23 on each occasion. We were zoning not planning.

24 Q.501I see.

25 A. This was a zoning proposal. We didn't take land ownership or those matters
26 into consideration. We considered the location and its suitability for future
27 development. That might be a 10-year time frame within which it would be
28 developed, so it t could have easily happened that a road infrastructure
29 surrounded those lands as a matter of course, based on the local traffic
30 demand. So there would have been a lot of considerations.

1 Q.502You were rezoning in the context of the Local Government Planning and
2 Development Act 1963 (As Amended); isn't that right?

3 A. Mm-hmm.

4 Q.503So what you were concerned about was planning and development?

5 A. Mm-hmm.

6 Q.504Isn't that right?

7 A. Yes.

8 Q.505Now, what planning input did you have or did you bear -- what planning factors
9 did you bear in mind when you were voting for the rezoning of this 107 acres?

10 A. I don't think I understand that question.

11 Q.506You were dealing with the rezoning of land. You were dealing with it in the
12 context of the Planning and Development Act?

13 A. Yes, I understand you now.

14 Q.507Yes?

15 A. An area of that size would be automatically subjected to a local area plan.
16 Following on its zoning, the local area plan would deal with all the
17 infrastructural and community and social needs which would be deemed to be
18 needed for that area. So we would have another opportunity at a later stage in
19 the planning process to deal with all those matters.

20 Q.508It has been suggested to me -- and I would just like your view about this, as a
21 councillor who was intimately involved in planning and rezoning -- I would like
22 to get your comment on that suggestion, because I don't know whether it is a
23 basis or not. The suggestion is this: That -- and I have to say that this is
24 a suggestion made by somebody who is not particularly enamoured by the amount
25 of rezoning that had gone on in Dublin in the '90s, the suggestion was as
26 follows: That where developers landowners and/or councillors want lands to be
27 rezoned and they were faced with significant opposition or there was
28 significant infrastructural deficits or the proposal would involve very
29 significant financial outlays from a cash strapped Council that it was usually,
30 a matter that could be an was regularly dealt with by saying "This proposal

1 will be subject to an Area Action Plan at a later stage" and in that way the
2 councillors could effectively wash their hand and justify the re zoning of
3 lands and thereby get the, getting the developer over the major hurdle.

4 What would you say to that?

5 A. I wouldn't agree.

6 Q.509 You wouldn't agree at all?

7 A. No.

8 Q.510 The fact was, though, that very often if there was strong opposition to a
9 proposed rezoning, whether by the manager or by residents or others, the
10 recommendation would be or the justification would be that this will be the
11 subject of an Area Action Plan and all of these matters such as schools and
12 infrastructure and shops and playing areas and all that sort of thing will be
13 dealt with at that stage. That was factual -- that happened regularly, did it
14 not?

15 A. That is the natural course of events from zoning to planning, yes.

16 Q.511 Now, we are just coming back to this meeting and your consideration of the
17 manager's report. You didn't, it didn't occur to you to ask where will this
18 junction be provided if we are going to provide it?

19 A. You will appreciate that the local councillors and the sponsors of the motion
20 would have made the greater contributions to the debate on the day in the
21 chamber.

22 Q.512 I understand you didn't contribute to the debate, which seems to suggest you
23 didn't ask any questions. I am asking did it cross your mind to inquire as to
24 what land would be required for this junction or what houses might be affected
25 by the junction or whose lands would be involved?

26 A. I didn't specifically ask but the sponsors of the motion more than likely did
27 or then again maybe they didn't. I would have listened to the debate in the
28 chamber and I would have listened to the reasons being put forward by the
29 proposers and seconder as to why they were suitable for development and I would
30 have taken that into consideration too.

1 Q.513Did you take into consideration the manager's objection based presumably on his
2 roads engineer's reports that the Glenamuck Road was substandard and that if
3 access could be provided onto the Glenamuck Road, it would remain substandard
4 by virtue, inter alia, of the amount of traffic generated by the proposed
5 development?

6 A. I wouldn't have regarded that as a significant piece of information because of
7 what I said to you earlier. We were only dealing with a zoning proposal,
8 access to the site would have been considered. There would have been an
9 engineering solution to that which would have been quite acceptable I am sure.

10 Q.514You earlier told the Tribunal you considered the entire 107 acres, 108 acres
11 was suitable for development; isn't that right?

12 A. (Nods.)

13 Q.515And you voted for the motion accordingly.

14 A. There would have been patches of the entire site that for one reason or other
15 may not have been, if the topography was wrong, if it was too high above a
16 certain contra line or that.

17 Q.516Now the manager is telling you in the second paragraph of his report, "The
18 western portion of the site is unsuitable for industrial development due to the
19 steep contours and exposed nature of that part of the site." Why did you not
20 ask questions about that to see what, how much of the site was unsuitable for
21 industrial development?

22 A. That was the manager's opinion.

23 Q.517Did you ask Frank Dunlop what his opinion was?

24 A. It may have been suitable for other kinds of development.

25 Q.518Was Frank Dunlop present in the precincts of the Council chamber on that
26 occasion?

27 A. I am sure he was but --

28 Q.519Did you say to Frank, "Frank, did you see this manager's report? He is saying,
29 by God, that the western portion of the site is unsuitable! What are we going
30 to say about that?"

1 A. No, I wouldn't have said that to Frank, no.

2 Q.520Well, did you consult him at all about it?

3 A. No, it would have been physically impossible in the context of the meeting to
4 do that.

5 Q.521Why would it be physically impossible?

6 A. Because, well, the chamber was arranged in such a fashion that we were in our
7 seats, similar to what we have here, and the public gallery was back in the
8 corner.

9 Q.522Yeah. Well -- the Tribunal has heard Mr. McGrath that many councillors were
10 summonsed from Conway's when a vote was called and that they were to be found
11 in the foyer or lobby coming into the council chamber, that that was usually
12 packed. Now I don't understand if that is -- first of all, do you agree that
13 that is the situation from time to time?

14 A. Yes, it was.

15 Q.523Well now, how is it that you were having difficulty then physically contacting
16 or making contact with Frank Dunlop on that occasion?

17 A. I am just telling I didn't.

18 Q.524You didn't?

19 A. I had no contact with him during the debate on that motion.

20 Q.525Well, did you talk to him after the meeting in Conway's and tell him what the
21 general view of the councillors at that meeting was?

22 A. If he was at the meeting I didn't need to.

23 Q.526Look, did you contact him after the meeting in Conway's and tell him what the
24 general mood --

25 A. I am not sure if he was in Conway's. I am not sure if I was either after the
26 meeting. Well, that would have been only one item on an agenda, a packed
27 agenda.

28 Q.527Yeah, but this was a very important matter for Frank --

29 A. I would have probably had items in my own area which were of much more
30 importance to me than that particular one.

1 Q.528 You weren't dealing with your own particular area at this stage, you were
2 dealing with the Carrickmines area. This was a special meeting dealing with
3 Carrickmines lands. Now, you knew that Frank Dunlop was very interested in
4 this and he told that you say his interest was an interest which in financial
5 terms was a hundred thousand pounds. Did you discuss with him what your
6 colleagues and yourself had discussed in Conway's prior to this motion being
7 passed or proposed?

8 A. No, I did not.

9 Q.529 Did you discuss with Councillor Lydon what were the merits or otherwise of this
10 particular motion?

11 A. I may have, but I can't specifically say I did.

12 Q.530 Did you discuss with Councillor Hand, the late Councillor Hand, the merits or
13 otherwise of this particular motion?

14 A. I would say not. I would have listened to Councillor Lydon's recommendations
15 at our group meeting prior to the meeting and that would have helped to
16 inform --

17 Q.531 What did he say at the group meeting which lead to you believe that this was a
18 proposal worthy of support?

19 A. Again, I can't specifically recall but no doubt he extolled the virtues of it.

20 Q.532 What virtues stick out in your mind as to --

21 A. Similar to what I said. More that I based my decision most in part on.

22 Q.533 Which, what were they?

23 A. The location of the lands.

24 Q.534 Location of the lands?

25 A. Yeah.

26 Q.535 What about the location of the next farmer's land, was that not equally
27 suitable for rezoning?

28 A. More than likely was.

29 Q.536 Why didn't you rezone that?

30 A. The proposal didn't cover that.

1 Q.537Why didn't you propose it, say "I think we should rezone all of this land in
2 Carrickmines. I looked at the map and it seems to be a great place for
3 rezoning it"?

4 A. It may have been that the farmer or other landowners involved had no interest
5 in developing their lands.

6 Q.538But did you inquire about that?

7 A. It wasn't my area.

8 Q.539Did you not say to somebody "Listen, should we not look at this in its
9 totality, there is a big strip of green swarth of land in the Carrickmines
10 area, there is a shortage of building land, developers are hoarding land an
11 sitting on rezoned land inappropriately rezoned in the past, should we not come
12 back with a recommendation or get the manager to come back with a
13 recommendation for the rezoning of a large part of these lands?"

14 A. We would have considered that yes, when lands in a particular area are suitable
15 for rezoning it goes, it follows that lands adjacent to them are more than
16 likely suitable for rezoning as well. It may be that efforts were made to
17 strike a deal with those lands owners but those efforts failed.

18 Q.540An effort -- to strike a deal -- who would that effort be made by?

19 A. Whoever. Either the local authority or developers.

20 Q.541Well, there is nothing here to suggest that the local authority were attempting
21 to strike a deal with anybody? I mean, do you know whether any adjoining lands
22 had access to a better road network than these particular lands?

23 A. All the lands from that area had the same infrastructural deficit.

24 Q.542I see. And what infrastructural deficit was that?

25 A. Oh, they were all -- there wasn't a road infrastructure to serve them on the
26 basis of the potential of their development, that would have to come on stream.

27 Q.543And notwithstanding that you --

28 A. With the developer.

29 Q.544-- recognised that there were inappropriate zonings in the past and there was
30 an infrastructural deficit in relation to those lands, you voted to have them

1 rezoned?

2 A. An infrastructural deficit can be easily overcome by the provision of that
3 infrastructure.

4 Q.545 Providing that money is forthcoming?

5 A. Yes, of course, that's the normal way. It's not unusual.

6 Q.546 And the money has to come from the Council and from the Council and the
7 Council's money comes from the taxpayer?

8 A. No, no. I think you will find when it came to the granting of planning
9 permissions on lands such as these, the manager took into account the increased
10 value of the lands after zoning and he would have levied the developer pro rata
11 on that basis.

12 Q.547 We have already discussed that this morning and you have already given evidence
13 about that and you acknowledge that the development levies are effectively
14 levies on the house purchasers who have to pay, through the increased cost of
15 housing, for the provision of such services; isn't that right?

16 A. That may be the case, it's every individual house purchaser's own decision to
17 decide whether they are getting good value for money in the purchase of their
18 home.

19 Q.548 The manager went on to say in the third paragraph of the report, "In view of
20 the isolated location of the lands". Did you agree that they had an isolated
21 location?

22 A. No.

23 Q.549 They weren't isolated?

24 A. No, I don't think they were isolated. I don't think any lands in County Dublin
25 are isolated.

26 Q.550 Well, did you ask him what he meant then by his describing these lands as being
27 isolated?

28 A. No I didn't ask him.

29 Q.551 Why did you not stand up and say, "I don't regard these lands as being
30 isolated. There are no lands in County Dublin which are isolated."

1 A. You will have to appreciate the circumstances in the chamber at the time of
2 these rezoning motions.

3 Q.552Yes, we have --

4 A. In the normal course of events speakers were not, as a rule, but they were
5 usually confined to the members representing the immediate local area, who had
6 a much more intimate knowledge of the lands in question.

7 Q.553But --

8 A. I, in turn, would have relied on their support in relation to lands in my own
9 area and they would have depended on my intimate knowledge of those lands and
10 the surrounding area.

11 Q.554But my understanding is that neither of the two councillors who were proposing
12 and seconding this meeting represented that particular ward in which the lands
13 were situated?

14 A. They are from that general area.

15 Q.555From the general area?

16 A. Yes.

17 Q.556Why did you not stand up, given that you are of the view that no lands in
18 Dublin are isolated, why did you not stand up and say, "Manager, I take
19 exception to the suggestion that these lands are in isolated location." Did
20 you not feel you had a duty to say that if you felt it?

21 A. The manager's interpretation of what isolated lands are obviously doesn't, it
22 is obviously different to mine.

23 Q.557Surely you had a duty to try and persuade him that he was wrong in describing
24 them as isolated and wrong in recommending that the motion be not passed?

25 A. I understood the manager's use of the word isolated to mean it was isolated
26 from an infrastructural point of view and not isolated as in Kerry or West
27 Cork.

28 Q.558Do you accept that they were isolated from an infrastructural point of view?

29 A. I do, yes, but that's not insurmountable.

30 Q.559Provided somebody puts up sufficient monies to relieve that infrastructural

1 deficit; isn't that right?

2 A. The bulk of it falls to the developer in that case.

3 Q.560The bulk of it falls on the taxpayer, on the person who is purchasing houses
4 there through the developer.

5 A. The servicing of any lands infrastructurally falls to the taxpayer.

6 Q.561Indeed.

7 A. These lands are no different, I don't know why you keep emphasising that.

8 Q.562Why talk about it as if the developer is paying for it? It is the taxpayer and
9 it is the people, the people, the purchasers of houses who pay for these
10 infrastructural and make up for these infrastructural deficits?

11 A. You seem to be inferring that other lands that were zoned perhaps with the
12 manager's recommendation are not going to cost the taxpayer to service with
13 infrastructure.

14 Q.563I am not suggesting at all.

15 A. All lands have to be serviced and given infrastructure, ultimately the taxpayer
16 pays for it all.

17 Q.564Absolutely. Nobody disagrees --

18 A. They are the genesis of business though.

19 Q.565Nobody disagrees where lands are appropriately designated or appropriately
20 rezoned and have to be serviced, that that servicing has to be provided.

21 A. Yes, and I have already said that we were trying to advance development in the
22 county. If you recall, this was a time of an economic downturn, the building
23 industry was under threat. It was very, very difficult for builders to
24 guarantee continuity of employment in their workforce and if things were not
25 happening in places A, B and C, well it behoved us, as public representatives,
26 to see where they might happen and we regarded these lands as a place where
27 development would come on stream quite likely if the lands were rezoned.

28 Q.566Are you aware, Councillor McGrath, that evidence has been heard from senior
29 county planner, a number of planners indeed, and that they have, and in
30 particular Mr. Enda Conway, who was county planner in your own county before

1 his retirement, he said that at all times during the 30-year period since 1972,
2 there has been more than an adequate quantity of lands zoned for residential
3 and employment uses in County Dublin?

4 A. I am aware he said that, yes.

5 Q.567You are aware he said that?

6 A. Yes. But unfortunately an awful lot of that zoned land remained undeveloped,
7 they are the lands I am referring to earlier on.

8 Q.568Can you give a reason why that is so?

9 A. Because they were inappropriately zoned.

10 Q.569Because the developer chose not to develop them?

11 A. Those lands, the main bulk of the lands that I was referring to were zoned by
12 the planners, not by the members.

13 Q.570Whoever they were zoned by, they were not developed because developers chose to
14 the --

15 A. Sorry, on the planner's recommendation.

16 Q.571The developers chose not to develop them, isn't that right?

17 A. No, I wouldn't agree that they chose to not develop them.

18 Q.572They didn't?

19 A. There was no demand in the area.

20 Q.573You are saying there was a demand yet there was plenty of land zoned at the
21 time and you were only adding to the amount of zoned land by zoning or
22 proposing to rezone this 108 acres and the other lands that you voted to rezone
23 in 1992 and 1993?

24 A. There are plenty of examples of large tracts of lands which were zoned and
25 zoned for ten, 20 years and still no development took place on them.

26 Q.574Are there --

27 A. It's market forces that dictate it.

28 Q.575Are there examples of serious hoarding of land banks by developers who release
29 a certain amount of land and build on a certain amount of land in order to keep
30 prices of houses and buildings inflated? Have you come across that in your

1 experience as a representative?

2 A. You are asking me to speculate on the motives of builders?

3 Q.576No, no I am just asking you is it your belief as somebody who is representing
4 your constituency or representing your ward who is concerned about the prices
5 of houses, as undoubtedly you are, have you come across or have you, has it
6 been, has it been expressed to you that there has been hoarding of
7 residentially zoned land by developers who release land on a piecemeal basis in
8 order to keep prices at an inflated level?

9 A. I have heard that being suggested over the years, yes.

10 Q.577Is that a serious concern among your constituents?

11 A. It would have been in my own particular area. I would go on to say that
12 therein lies another reason to ensure that we do have enough zoned development
13 land in the country.

14 Q.578Well now, what did you do to articulate the concerns that were being expressed
15 by your constituents in relation to the hoarding of development land and the
16 piecemeal releasing of such land for development? Did you bring any motion for
17 example that any inappropriately zoned land in County Dublin should be dezoned
18 in order to force people to carry out development?

19 A. In the context of the review of the Planning Acts, I would have contributed to
20 all the debates that took place before that new legislation was formulated.

21 Q.579No, what I am asking you --

22 A. In the 2002 final draft of that legislation, it is now a stipulation that land
23 which is zoned for more than five years without any development taking place
24 automatically becomes dezoned.

25 Q.580Did you, in the course of the review of the 1983 Development Plan and the early
26 1990s, propose that any land be dezoned in order to, in an effort to ensure
27 that zoned land was developed and it would not be necessary to further zone
28 lands?

29 A. When you asked me about had I heard any speculation about the hoarding of
30 lands, you didn't put a time frame on it. I would have only become aware of

1 the suggestion that land hoarding was going on maybe in the past five years. I
2 certainly wasn't aware of it around the time of the bulk of these decisions.

3

4 JUDGE FAHERTY: Why weren't you aware of it, Councillor McGrath?

5 A. Why wasn't I aware that builders might be hoarding zoned land? I am not --
6 that's to suggest to me that they were doing it. So I don't know if you
7 have -- have you formed that opinion yourself?

8

9 JUDGE FAHERTY: No, just go back to basics then. Plenty of people can make
10 assumptions about why land wasn't developed over the years. I will go back to
11 first principles. Did you know what, how much lands in this area in
12 Carrickmines was zoned by the previous plan?

13 A. As far as I am aware in the immediate vicinity, in the general, even in the
14 general area there was no land zoned.

15

16 JUDGE FAHERTY: You see, Mr. Conway told us that he had compiled a number of
17 working papers in the lead-up, as I understand it, to when this start of the
18 review of the Development Plan, and he would have presented those, as I
19 understand it, in his evidence to the Council.

20

21 His evidence was that there was 118 hectares of zoned undeveloped lands and
22 that there were 70 hectares of zoned, of which 70 hectares were actually
23 serviced. That's quite a lot of land that was not only zoned but serviced for
24 development; isn't that right?

25 A. I'll accept your word for it, yes, I am sure.

26

27 JUDGE FAHERTY: I am only quoting what Mr. Conway said in evidence back last
28 December. And I just want to ask you, when you saw this motion or you had the
29 request from Mr. Dunlop, what fact-finding did you do about the amount of land
30 that was available for development?

1 A. I would have been --

2

3 JUDGE FAHERTY: In Carrickmines

4 A. We have Development Plan maps and we would be familiar with the colourings on
5 the maps and we would have seen from the maps what land was zoned and what land
6 was developed.

7

8 JUDGE FAHERTY: But if you had --

9 A. It would have had a certain bearing on our decision, but when you are zoning
10 land I would regard that, particularly in an economic downturn, you are talking
11 a 10-year time frame, from the start of, from the zoning to its full
12 development potential, that could stretch to 15 years if there wasn't a pick-up
13 in the economic situation.

14

15 JUDGE FAHERTY: Yes, but how could you be sure in 1992 if you zoned this land
16 or this land was zoned that there would be development on it? Because the
17 pattern to date didn't appear to boost that, any confidence that it would
18 actually be developed. I mean what factors or indicators did you have, you
19 said that you -- this was a long term situation.

20 A. Yeah.

21

22 JUDGE FAHERTY: But there was a number of hectares of land zoned and indeed
23 serviced, undeveloped. And what knowledge did you have that made you confident
24 that the developers proposers of this motion would actually develop the lands?

25 A. Because number one, it was a very desirable location. Number two, there was a
26 large centre of population in the general Dun Laoghaire/Rathdown area where the
27 offspring were finding it difficult to purchase new homes in close proximity to
28 their parental home and that was basically it. That was it. We felt that
29 these houses in this area would sell.

30

1 JUDGE FAHERTY: But in this particular instance it was zoned, it was an
2 industrial zoning that was being sought; isn't that correct?

3 A. I was under the impression it was a mixed use development.

4

5 JUDGE FAHERTY: Was it mixed use? That may well be, we can find out in due
6 course.

7

8 MR. GALLAGHER: Zoned E or provide high quality job creation basis in South
9 County Dublin

10 A. That's --

11

12 JUDGE FAHERTY: That's what I thought. I just have to go back again --

13 A. Same would apply to what I said about the demand for housing, it was to provide
14 employment opportunities for people in close proximity to where they live.

15

16 JUDGE FAHERTY: But I still haven't received from you what factors you knew of
17 or, that would, that encouraged you to vote for this motion in the knowledge
18 that these lands would be developed, given that there was so much undeveloped
19 zoned and serviced lands already in the area.

20 A. Well therein lies part of the answer, the land that had already been zoned in
21 the area was not proceeding to its next development stage.

22

23 JUDGE FAHERTY: But that's --

24 A. For reasons why I don't think it would be fair to ask me to explain but I am
25 sure somebody can.

26

27 JUDGE FAHERTY: Absolutely, I understand that.

28 A. We felt the need that alternate lands should be rezoned.

29

30 JUDGE FAHERTY: But you had no guarantee the same thing wouldn't happen in

1 relation to these land; isn't that correct?

2 A. That's where the opinions of our colleagues and those who were proffering
3 reasons to us as to why were taken into account.

4

5 MR. GALLAGHER: I thought you had indicated that you weren't aware of the
6 location of the land, apart from the fact that they were in Carrickmines, is
7 that still the case?

8 A. I knew the general location of the lands.

9 Q.581 You knew they were in Carrickmines but you weren't familiar with the lands, you
10 had never seen them or walked them?

11 A. Not intimately.

12 Q.582 You had never walked the lands for example?

13 A. Private lands, no, I wouldn't, no.

14 Q.583 You hadn't walked around the perimeter of the lands?

15 A. No.

16 Q.584 So you didn't know where the lands were except that they were in Carrickmines?

17 A. Yes.

18 Q.585 Now, the manager went on in his report to say to you and to your other
19 councillors that, "In view of the isolated location of the land and the
20 difficulty of access and having regard to decisions already taken by the
21 Council relating to adjoining lands, the site is not an appropriate location
22 for industrial development."

23

24 Did you, did the manager -- what decisions he was talking about when he
25 referred to decisions already taken by the Council relating to adjoining lands

26 A. No, I didn't

27 Q.586 Did you know at that stage whether or not the Council had voted not to rezone
28 adjoining lands for industrial purposes?

29 A. I don't recall any decision not to --

30 Q.587 Did you recall, did you know at that stage whether or not the couple had voted

1 not to rezone adjoining lands for industrial purpose?

2 A. I don't know.

3 Q.588You didn't. Now if that had happened, that would be inconsistent approach and
4 a decision from your point of view, wouldn't it?

5 A. Well --

6 Q.589Wouldn't it?

7 A. If it had happened.

8 Q.590Is it the fact then that you didn't ask the manager what he meant by the
9 inconsistent decisions already taken that he identified?

10 A. I didn't ask him.

11 Q.591You didn't ask him, did anybody else ask him in your hearing?

12 A. They may have.

13 Q.592Well now, he was are, here was something -- he was saying this is going to be
14 an inconsistent decision, presumably you as elected representative going back
15 to face your electorate sometime in the future didn't want to be accused of
16 supporting something that was inconsistent with something that the Council had
17 decided or that you had voted on or proposed or seconded in the past; isn't
18 that right?

19 A. Those questions may have been asked.

20 Q.593But were they asked?

21 A. I couldn't say for sure. I may not have been in the room at the time.

22 Q.594But you voted for it. You were in the room, you voted?

23 A. I may have been out of the room.

24 Q.595How could you be out of the room and vote?

25 A. I may have been out to take a phone call, go to the toilet.

26 Q.596So you weren't present when the debate took place, is that what you are saying?

27 A. I was present, I may not have been there at that specific, I think it is unfair
28 to ask me if I have heard every word.

29 Q.597I am asking, are you saying you didn't hear every word?

30 A. I am trying to be as helpful as I can. My fall back position is that I don't

1 recall but I would like to do better than that, I tell you I cannot recall
2 those questions being asked but that's not to say they weren't asked.

3 Q.598 Did you ask them?

4 A. I didn't ask them, no.

5 Q.599 Now, it's proposed that the motion be not passed, isn't that right, and then
6 following upon that Councillors Lydon and Hand proposed a motion which would
7 rezone the lands if passed; isn't that right?

8 A. Mm-hmm.

9 Q.600 And to rezone them for industrial purposes; isn't that right?

10 A. (Nods).

11 Q.601 And it would rezone them in the context of the Council having received or
12 considered 14 working papers over a number of years and having been furnished
13 with an updated report on the 31st of January 1991 concerning the adequacy of
14 industrial zoned land in the county; isn't that right?

15 A. Yes.

16 Q.602 And it would, it was done in the context where you knew and every other
17 councillor knew that the planners were telling you that there is an adequacy of
18 industrial zoned land in Dublin County there is no need to rezone any further
19 lands than those that are already proposed to be rezoned; isn't that right?

20 A. That's what the planners were saying, yes.

21 Q.603 That's what they were saying. They were telling you at that stage that "The 13
22 hundred hectares of undeveloped land now proposed is ample to meet the
23 requirements for the foreseeable future based on current predictions of
24 population and labour force". Isn't that right?

25 A. That wasn't all industrial zoned.

26 Q.604 Pardon?

27 A. The reference to that wasn't all based on industrial zoned, I don't think.

28 Q.605 Yes, industrial zoned lands is what Mr. Conway was talking about. He has said
29 in relation to the residential "zoned land may be of considerable interest.
30 To facilitate development has resulted in an ample supply of severed

1 residential zoned land to meet the needs for many years to come" and he is
2 referring to the written statement which reiterated the finding of the working
3 papers in relation to these lands and they are to be found on pages perhaps --
4 could I have page 229, sorry maybe 229 of the working papers? Do you see
5 this -- this is a working paper prepared for you and for your colleagues by the
6 planners and specialists employed by the Council which says, "The present
7 analysis of the situation confirms that the conclusion of working paper number
8 4 in relation to the adequacy of the zoned lands in the 1983 plan. The 13
9 hundred hectares", that's 13 hundred multiplied by 2.47 to give you acres "of
10 undeveloped land now proposed is ample to meet the requirements for the
11 foreseeable future based on current predictions of population and/or labour
12 force "

13 And that is a reference to industrial land, and you will see that in number 2,
14 paragraph number 2 and number 3. So he is talking about and his colleagues and
15 the manager were talking about the amount of zoned industrial land in Dublin
16 County at that stage, something of the order of 3,500 acres of industrial zoned
17 lands.

18 A. Yes, a sad indictment of the planners.

19 Q.606A sad indictment, some say, of the way that lands were zoned in the past,
20 'irresponsibly zoned' was the word you used earlier, was it?

21 A. No, inappropriately.

22 Q.607I beg your pardon, I am sorry, it was in inappropriately.

23 A. Yes, many of those lands were zoned by the planners.

24 Q.608Sir, the Development Plan is made by and has been made by elected members like
25 yourself?

26 A. Yes, but I wasn't on the Council at that time that they were zoned.

27 Q.609Now it would appear from the minutes of the meeting then that the motion was
28 proposed by Councillor Lydon, seconded by Councillor Hand that they contributed
29 to discussion with Councillor Niamh Breathnach and if we look at the minutes of
30 the meeting we see Councillor Niamh Breathnach opposed the proposal. She voted

1 against, so presumably she was speaking in favour of the manager's report;
2 isn't that right?

3 A. I don't know what -- I can't recall what she said but I'm sure --

4 Q.610 If she voted against the proposal, it's a reasonable assumption that she was
5 supporting the manager's position and opposing the position that you and
6 Councillor Lydon and Councillor Hand adopted; isn't that right?

7 A. It's also a reasonable suggestion that she may have prefaced her remarks by
8 saying she was very conscious for a need for appropriately zoned industrial
9 lands in her general catchment area to provide quality employment for the
10 burgeoning young population of her constituency. But she may have regretfully
11 had to vote against it, based on the manager's report. She may have been
12 influenced by the fact that the manager wasn't recommending it from an
13 infrastructural and technical point of view.

14 Q.611 It may be that she was familiar with the lands and knew that they were
15 absolutely unsuitable for rezoning at that particular time as the manager had
16 recommended?

17 A. Well, that's where the prerogative comes into it.

18 Q.612 In any event, the point is she spoke, she contributed to the debate and as we
19 see from the following page, she voted against the motion; in other words she
20 was supporting the manager's position, isn't that right. Councillor Eithne
21 Fitzgerald also spoke and we see that she voted against the motion and in
22 favour of the manager's position presumably. Councillor Eamon Gilmore spoke
23 and he voted against the motion, presumably he was supporting the manager's
24 position and opposing the motion. Councillor Barrett spoke and he voted
25 against the motion and he presumably was supporting the manager's position,
26 isn't that right? Councillor Keogh spoke and -- sorry, whether or not he voted
27 for or against, sorry he spoke and voted against the motion; isn't that right.
28 Councillor O'Callaghan spoke and he voted against the motion, is that right?

29 A. Mm-hmm.

30 Q.613 Yes, D O'Callaghan. Councillor Gordon spoke and he voted against the motion.

1 Councillor Healy spoke and he voted against the motion. Councillor Cass spoke
2 and she voted against the motion. Councillor Smith spoke and he voted against
3 the motion. And Councillor Larry Butler spoke and he voted against the motion.

4
5 So of the 13 councillors who contributed a fair inference I suggest, that two
6 spoke in favour, that's Councillor Lydon who was proposer and Councillor Hand
7 who was seconder, and that the remaining 11 spoke against the motion and spoke
8 in favour, in effect, of the manager's report and supported the manager
9 recommendation; isn't that right?

10 A. Mm-hmm.

11 Q.614Wouldn't you accept that?

12 A. Yes.

13 Q.615As a fair inference?

14 A. Yes, that's -- it's there in black and white.

15 Q.616And would you accept from me that the councillors who did contribute,
16 Councillor Niamh Breathnach from the Dun Laoghaire area; isn't that right?

17 A. Mm-hmm.

18 Q.617Councillor Eithne Fitzgerald is from the Dundrum area; isn't that right?

19 A. (Nods).

20 Q.618Councillor Eamon Gilmore represents the Dun Laoghaire/Rathdown area generally,
21 Councillor Sean Barrett is from that area also, I think all of those
22 individuals were members of Dun Laoghaire Corporation before it was abolished.
23 Helen Keogh was from that area; isn't that right?

24 A. Mm-hmm.

25 Q.619Councillor Dennis O'Callaghan is from Shankhill just out the road from these
26 lands, Councillor Gordon is from that area; is that right?

27 A. Mm-hmm.

28 Q.620Do you accept that?

29 A. I couldn't say specifically but I, my general recollection is that they are
30 from the south side, yeah.

1 Q.621Councillor Healy is from Howth, as I recall. Councillor Cass, I believe, I am
2 not quite sure. Councillor Smith, I think, is from the Dundrum area and
3 Councillor Larry Butler is from the Dun Laoghaire area.

4
5 So of the 11 speakers who would appear to have opposed the motion, ten of them
6 would appear to have come from the general Dun Laoghaire/Dundrum/Foxrock area;
7 would you accept that?

8 A. Mm-hmm.

9 Q.622And notwithstanding their contributions which were contributions opposing the
10 rezoning of the land, you as an outsider to this area, as somebody who didn't
11 know the location of the lands, saw fit to rezone, to propose or support the
12 rezoning of 108 acres of industrial lands; isn't that right?

13 A. Well firstly, I don't accept that I didn't know the location of the lands. I
14 did know the location of the lands. And secondly, the considerable number of
15 councillors who voted for it were also from the area as you can see on the
16 screen.

17 Q.623Indeed. And no doubt they will all answer for themselves if they are asked to.

18 A. Yes, and hopefully those who voted against will be honest enough to say that
19 the overriding reason that they went against it was because certain members,
20 they were certain agitation groups in the area who were opposed to the
21 prospects of industrial zoning in their area, which is very often the case.

22 Q.624Now, I want to put to you what Mr. Dunlop says about his dealings with you and
23 in particular his dealings with you in the context of that particular motion.
24 As you know we are dealing here with the Carrickmines lands, not dealing with
25 any other lands at this stage.

26
27 He says that he lobbied you in relation to the voting in favour of that motion.
28 In favour of supporting the rezoning of the Paisley Park lands and he did so,
29 he says, on a number of, in a number of different locations including your
30 place of work in Clondalkin, in Frank Dunlop's office, in the Green Isle Hotel

1 and on other occasions, although not frequently at Conway's pub and the Royal
2 Dublin Hotel. Do you accept that you spoke with Frank Dunlop at these various
3 locations about the rezoning of the Paisley Park lands, whether or not the name
4 Paisley Park was used?

5 A. I don't recall speaking with him in the Green Isle Hotel. Apart from that yes,
6 I probably did.

7 Q.625 He has said in evidence and I just give you an opportunity to either accept it
8 or deny it or to say what you wish. On day 344 he said as follows, at question
9 84.

10

11 Question: In relation to Paisley Park, thank you." And then this was the
12 question that I put to him, "I now turn to that part of your statement which
13 deals your allegation you made a payment of 2,000 to Colm McGrath. Would you
14 outline to the Tribunal please the dealings you had with Councillor McGrath in
15 relation to the Paisley Park lands and the background and circumstances
16 surrounding the payment of 2,000 pounds and the reasons there fore.

17 Answer: Well in the same manner that I outlined to you, Mr. Gallagher, in
18 relation to a lobbying exercise that was conducted vis-a-vis Paisley Park with
19 other councillors that we dealt with. I lobby Councillor Colm McGrath in
20 relation to that matter." Page 63 please?

21

22 Down at the bottom of the page you see this, councillor, it is on the screen
23 now. "I lobbied Councillor McGrath in relation to this matter, I should say to
24 you that the location I normally met Councillor McGrath were as follows:
25 Either at his place of work, which is in the village of Clondalkin, his place
26 of work then was in the village of Clondalkin, at my office in the Green Isle
27 Hotel nearby and on other occasions but rarely in the Royal Dublin Hotel and
28 Conway's pub.

29

30 Councillor McGrath was not a particular frequenter of either the Royal Dublin

1 Hotel or Conway's pub. He preferred in my experience to meet elsewhere at
2 places of his choice rather than in the immediate environment of Dublin County
3 Council. They were, as I have said, in either his office, Green Isle Hotel, my
4 offers and on other occasions in licensed premises elsewhere. I met him in a
5 pub in Clondalkin itself on one occasion" Now do you take issue with any of
6 that evidence?

7 A. I may have met him in various locations, I couldn't say specifically where. I
8 do recall him being in my office all right.

9 Q.626Do you disagree any part that have evidence, do you say it is wrong in any
10 respect?

11 A. Well, if not being able to recall being interpreted to a disagree.

12 Q.627No, well --

13 A. Whatever about where I met him, can we cut to the chase like and let's see what
14 he is saying then, you know.

15

16 CHAIRMAN: Mr. McGrath, you have been asked a simple question. Do you
17 disagree with anything stated in that paragraph? If you say you can't
18 remember, that's fair enough. If you disagree, that's fair enough, or if you
19 agree, then say so.

20 A. I did meet him on several occasions in different locations, I think I said
21 earlier I met him in my office.

22

23 CHAIRMAN: You don't particularly disagree?

24 A. In his office and in the Council and I think in a hotel near the Council.

25

26 CHAIRMAN: So you don't particularly disagree?

27 A. I don't particularly remember the Green Isle hotel or a pub in Clondalkin.

28 Q.628Does it follow that you don't disagree with anything although you can't
29 remember some of the meeting?

30 A. Yes, I meet him on several occasions, yes.

1 Q.629 In other words, you are not prepared to say he is wrong but you cannot
2 remember?

3 A. No, I met Frank regularly over the years.

4 Q.630 He does, on it, say he met you on one occasion at your home?

5 A. He did call to the house once, yes.

6 Q.631 He is correct in that?

7 A. Yes, he did, yeah.

8 Q.632 And he says, page 65 please. He was asked "During the course of these meeting
9 was money raised and discussed and agreed? He says "During the course of one
10 of those -- the question was what was agreed.

11 Answer: Agreed means he asked for and I agreed the payment of 2,000 pounds in
12 relation to his specific support and role for this particular motion before the
13 Development Plan meeting of Dublin County Council on the 12 of June 1992.

14 Question: Page 443 please. This again is the page showing a page from the
15 minutes of Dublin County Council showing the voting for the motion proposed by
16 Councillor Lydon and Councillor Hand to rezone the land at Carrickmines. These
17 minutes show Councillor Colm McGrath voted in favour of that motion.

18 Answer: Yes.

19 Question: When and in what circumstances and in what manner did you pay 2,000
20 pounds.

21 Answer: I paid 2,000 pounds to him in his office subsequent to the vote."

22

23 Now arising from all of that I want to ask you a number of questions:

24 Did you raise the question of money with Frank Dunlop in the course of any of
25 the conversations you had with him about Paisley Park lands?

26 A. Never.

27 Q.633 Did you ask for and did he agree to pay you the 2,000 pounds at any time in the
28 context of the rezoning of those lands?

29 A. No, never, that's preposterous.

30 Q.634 Do you agree or disagree with his evidence that you asked him for and he agreed

1 pay to you the sum of 2,000 pounds in relation to your specific support and
2 vote for this particular motion before the Development Plan meeting of Dublin
3 County Council on the 12 of June 1992? Sorry, you are shaking your head,
4 perhaps if you answer for the stenographer.

5 A. I am saying emphatically that I did not ever ask Frank Dunlop for money for any
6 proposal.

7 Q.635 Did Frank Dunlop ever offer you money in respect of the proposed rezoning of
8 the Paisley Park lands?

9 A. Frank Dunlop made political contributions to me. He didn't offer them to me,
10 he just arrived and left them there was no negotiation.

11

12 CHAIRMAN: Could you elaborate?

13 Q.636 He arrived and left.

14

15 CHAIRMAN: You said?

16 A. Sorry, he arrived and left them.

17

18 CHAIRMAN: I beg your pardon, I didn't hear.

19 A. Yes, he arrived and left it.

20 Q.637 MR. GALLAGHER: All right.

21 A. I think I have already given details of that to the Tribunal.

22

23 CHAIRMAN: Well now, we need to know from you in your evidence, I mean when
24 you say he arrived and left money for you, can you explain in or around this
25 period of time when that might have happened if it did happen around then and
26 how much was left and what would he say to you, and what explanation would he
27 give.

28 A. I can. In the instance of the 2,000 pounds contribution, I couldn't tell you
29 when exactly it was to the date, but he phoned from his car, I was in my
30 office, he asked was I there, obviously I was but -- would I be there for a

1 while and he was on his way to see me.

2

3 He arrived within about half an hour, came up to my office. We had what I
4 would call a domestic conversation, which lasted about three minutes. He then
5 shook hands with me, left the Irish Times on my desk and said that's a little
6 something for your election.

7

8 CHAIRMAN: What, the Irish Times?

9 A. Well, I'll explain that. I was -- the phone was ringing in my office at the
10 time and I had calls on hold. He had left the office, I dealt with the phone
11 calls that were on hold for me and then I picked up the Irish Times and when I
12 opened it there was 2,000 pounds in cash wrapped inside the Irish Times.

13

14 CHAIRMAN: Can you remember when that was approximately?

15 A. I can't say exactly. I will accept that it was, you know, I accept it was
16 around that time but you know -- I think the emphasis I want to place here,
17 Your Honour, is that at no time did Frank Dunlop raise the matter of any
18 proposal that he was working on with me. He just came and left a contribution
19 for my election expenses and left. Shook hands. There was no mention of any
20 development, no mention of my support or otherwise for any development.

21

22 CHAIRMAN: But was this at a time -- I appreciate what you are saying, you
23 disagree with Mr. Dunlop's evidence that there was a deal done that you
24 requested money.

25 A. I did not ever request money.

26

27 CHAIRMAN: That a deal was done and he paid you money, you reject that?

28 A. Absolutely.

29

30 CHAIRMAN: But you do say possibly around this time Mr. Dunlop called and

1 without being asked for money, left money wrapped up in a newspaper as a
2 political donation. Now obviously 2,000 pounds is still a lot of money, but it
3 was a particularly large sum of money then, you would agree, I take it, and did
4 he give you any advance notice that he was leaving something in the newspaper
5 for you?

6 A. No, he did not.

7
8 CHAIRMAN: Did he say it was a political donation?

9 A. He didn't describe it in any fashion. I wasn't aware that he had left it until
10 he left the office.

11
12 CHAIRMAN: Right. Can you then explain what happened when you discovered that
13 the money was there?

14 A. I probably phoned to thank him, I don't specifically recall.

15
16 CHAIRMAN: But how do you know it was a political donation?

17 A. I couldn't have construed it as anything else.

18
19 CHAIRMAN: Did he say anything to you about it being for purposes of an
20 election for election expenses or anything of that nature?

21 A. My recollection of his words were, there's something there for your election
22 campaign.

23
24 CHAIRMAN: Right. What election campaign was that?

25 A. Whatever one was in the offing.

26
27 CHAIRMAN: Well was there one, in fact, offing. That's the --

28 A. There may have been or may not have been, but it wasn't unusual to receive
29 political donations between elections.

30

1 CHAIRMAN: All right. But you, you obviously when you saw the money must
2 have, must have been quite shocked or amazed or surprised?

3 A. I was pleasantly surprised because it was a generous contribution. I wasn't
4 shocked because he had made other contributions to my election campaign prior
5 to that.

6
7 CHAIRMAN: But much smaller sums, is that right?

8 A. Yeah, they were smaller sums.

9
10 CHAIRMAN: And what would this have, how would this have faired in terms of
11 other political donations, in terms of its size? Was it very substantial or
12 the biggest ever or --

13 A. It was quite substantial, yeah.

14
15 CHAIRMAN: Was it the biggest ever you had received?

16 A. No.

17
18 CHAIRMAN: And can you place that 2,000 pounds which you describe as a
19 political donation in the context of discussions you were having with
20 Mr. Dunlop in relation to the proposal to rezone the lands?

21 A. No, I can't.

22
23 CHAIRMAN: Well, was it in that year or within months or weeks or --
24 A. I can't really focus in on when that was. It was in 1992, I understand.

25
26 CHAIRMAN: Yes.

27 A. Sometime midway around the year --

28
29 MR. GALLAGHER: Mr. Dunlop, sorry if I may, Chairman, Mr. Dunlop has given
30 sworn evidence that he paid this money to you between the 12th and 29th of June

1 in 1992, would you disagree with that?

2 A. I have no -- I have no evidence to disagree with it.

3 Q.638 So you don't disagree with it?

4 A. I don't disagree with it, no. That doesn't necessarily say that's when it was
5 given to me.

6

7 JUDGE FAHERTY: In that context, when was your last election? As I
8 understand, there was local elections in '92 and '91; is that correct,
9 Councillor?

10 A. There were several elections in a short period of each other. If you recall,
11 there was a kind of series of elections at that time.

12

13 MR. GALLAGHER: According to my note, it may be incorrect but it can be
14 checked. There were local government elections on the 10th day of -- polling
15 day on the 10th of June of 1985, on the 27th of June, sorry 27th of June of
16 1991, 9th of June of '94 and 11th of June of '99. That's, if my note is
17 correct, means there was no local election in 1992.

18

19 JUDGE FAHERTY: I just --

20

21 CHAIRMAN: But at the time when you were being given this money which you
22 describe as a political donation or as, as you say Mr. Dunlop so described it,
23 in approximately those terms, we know there was no election on that year, but
24 you say that occasionally you would receive contributions between elections but
25 at the same time I am talking about in or around that time, you were being
26 lobbied by Mr. Dunlop in relation to the Paisley Park lands.

27 A. I fully understood that, yes.

28

29 CHAIRMAN: And did you see no connection whatsoever between his lobbying you
30 he wasn't a constituent of yours, so did you see no connection or is it your

1 evidence that you saw no connection whatsoever between being lobbied on one
2 hand by a lobbyist employed by a local landowner/developer, and on the other
3 hand being given this very substantial sum in cash with no immediate election
4 looming?

5 A. No, I saw no connection whatsoever. In fact, if I had formed the opinion that
6 Mr. Dunlop was trying to induce my support by way of a generous political
7 contribution, I would have thrown it in his face.

8

9 CHAIRMAN: What did you think he was doing?

10 A. Genuinely supporting my election expenses.

11

12 CHAIRMAN: Why?

13 A. I suppose you have to ask him that.

14

15 CHAIRMAN: No, we are asking you. I am sure at least that evening you must
16 have sat in a chair and wondered why this person, who wasn't your constituent
17 and with no immediate election around the corner, gave you this very
18 substantial sum of money while at the same time lobbying for your support in
19 relation to a rezoning development; did you not ask yourself why is he giving
20 it to me?

21 A. Well I emphasised that he did not lobby me on the day that he called to my
22 office.

23

24 CHAIRMAN: Well Mr. McGrath, you have agreed that around this time in that
25 year with an important rezoning motion around the corner, he was lobbying and
26 having meetings with you in your office, in hotels, and so on and did you see
27 no -- is it your evidence that there was no connection in your mind between the
28 handing over a substantial sum of money in cash and the fact that he was
29 lobbying you?

30 A. No, I did not see any connection and I would like to reiterate that I did not

1 have any meeting with Frank Dunlop in relation to Paisley Park or the
2 Carrickmines lands. On occasion that I would meet him, as in bump into him, he
3 would have raised the proposals with me, but I had no specific meeting with
4 him.

5
6 CHAIRMAN: All right. But why do you think he gave you the money?

7 A. I have -- because number one, he knew me quite well. He was anxious to see
8 that I progressed politically.

9
10 CHAIRMAN: And you think they were the reasons why he gave you the money?

11 A. Why does anybody make a donation to a politician?

12
13 CHAIRMAN: That's what we are here to inquire about. But your evidence
14 anyway is that you saw absolutely no connection between the two?

15 A. No, and if I had felt for a minute that he thought he was buying my vote, I
16 would have rejected the offer outright.

17
18 CHAIRMAN: And did anyone else not in your constituency ever give you that
19 type of money, around that time?

20 A. Around the time, within months of it or years of it?

21
22 CHAIRMAN: Well, in the early, say early 1990s, someone now not living or
23 doing business in your own constituency, out of the blue give you a substantial
24 amount of cash without being asked for it?

25 A. No.

26
27 CHAIRMAN: No. So this was an absolutely unique event in your life?

28 A. It was unique in that context, but it wasn't unique in the context of Frank.

29
30 CHAIRMAN: What do you mean by that?

1 A. Well, he had made other cash contributions to me.

2

3 CHAIRMAN: And would they be bigger or smaller than this?

4 A. Smaller.

5

6 CHAIRMAN: So it was a unique event in the sense of the size of the money or
7 the size of the amount?

8 A. I'll accept your description of it, unique.

9

10 CHAIRMAN: Well it has to have been unique. He was an outsider in terms of
11 your constituency, he was actively promoting a development for a client. He,
12 according to you, asked you for no favours and out of the blue he gave you what
13 possibly amounted to your biggest ever single cash donation, without an
14 election around the corner, I mean that's -- it's in that context that I would,
15 I would suggest to you that it's unique, would you not agree with that?

16 A. Well, I'll accept that it's unique in that context.

17

18 MR. GALLAGHER: Mr. McGrath, as I record the only extent to which you agree
19 with the evidence of Mr. Dunlop in relation to the handing over to you of 2,000
20 pounds was that you denied that you asked him for and he agreed to pay to you
21 the sum of 2,000 pounds in respect of your vote, is that right?

22 A. That's right.

23 Q.639 You do accept that he paid you 2,000 pounds in the second half or from between
24 the 12th and end of June of 1992, isn't that right?

25 A. I don't accept the word payment.

26 Q.640 Well, that he handed you over --

27 A. He gave me an unconditional political donation.

28 Q.641 He handed to you an Irish Times containing 2,000 pounds in cash, you accept
29 that?

30 A. I accept that, yes.

1 Q.642And you accept that that took place sometime between the 12th and the 30th of
2 June of 1992?

3 A. I will accept that.

4 Q.643You accept that. He says that he paid you that in your office subsequent to
5 the 12th of June 1992 and you accept that?

6 A. I don't accept the word payment, Mr. Gallagher.

7 Q.644Well I will use payment neutrally, I mean it neutrally, he gave you the sum of
8 2,000 pounds in your office subsequent to the 12th of June 1992?

9 A. Yes.

10 Q.645You accept that?

11 A. I accept that, yes.

12 Q.646And you accept that it was in cash. Now he says that the handing over was a
13 very quick exercise. He says discussions took place about a number of issues
14 at that time, do you remember that?

15 A. Mr. Dunlop said that?

16 Q.647Yes.

17 A. What issues did he say were discussed?

18 Q.648He just said a number of issues without identifying them, you described
19 something as being a domestic conversation?

20 A. Yes, that's all that took place.

21 Q.649Chitchat?

22 A. He inquired as to my health, my family's health, how things were going in
23 Clondalkin, how was my political career going, that was the general chat that I
24 recall.

25 Q.650I see. Well, may I have page 68 please? He says on page -- sorry in the
26 brief -- in his evidence on day 344 at page 20, Mr. Dunlop said as follows at
27 question 116, "Yes, well I can understand that at the meeting a number of
28 matters might be discussed. One might talk about the weather or other
29 developments.

30 Question: What I meant was what was discussed, or what was said about the

1 2,000 pounds. In other words, did you identify this 2,000 pounds as being
2 money paid for Paisley Park on the 20th June?

3 Answer: I am sorry, that is exactly the point. Yes, the monies would have
4 been handed over specifically for the vote that had been taken place, or had
5 been provided.

6 Question: Did you identify to Councillor McGrath that that is why they were
7 being handed over?

8 Answer: Yes, I did.

9 Question: What would you have said to him?

10 Answer: We agreed 2,000 pounds in relation to the Paisley Park vote, you voted
11 for it, there it is.

12 Question: I see. Are you saying that the money was paid to him because he had
13 voted, as he had agreed, in favour of the Paisley Park proposal.

14 Answer: Yes.

15 Question: And you were effectively fulfilling your part of the agreement.

16 Answer: Yes.

17 Question: Did you have any doubt in your mind as to the reason for making the
18 payment.

19 Answer: None whatever.

20 Question: Or the nature of the payment or how it might be characterised?

21 Answer: None whatever.

22 Question: Would you characterise it as -- well how would you characterise it?

23 Answer: Well, I would characterise it as you have asked me to, and I have
24 characterised the other payments. Either the interchangeable word, an
25 inducement or a bribe.

26 Question: I see. Have you any doubt in your mind as to Mr. McGrath's
27 understanding of why he was receiving the money at that time?

28 Answer: He was in no doubt as to the reason for the payment of the money.

29 Question: You mentioned that because of the nature of his work, it was
30 necessary for him to remain in, or in close contact with his office in

1 Clondalkin. What was the nature of his business?" Then we went on to deal
2 with other matters.

3
4 Now, he has said in his evidence, which I have quoted and I am paraphrasing,
5 that he told you when he was handing you over the 2,000 pounds, that this was
6 the 2,000 pounds which you had asked for and which he had agreed to give you in
7 return for the Paisley Park vote. What do you say about that?

8 A. It's simply not true. I find it offensive actually.

9 Q.651And he also says that the payment was a bribe that he was making to you or an
10 inducement, whichever word one wishes to use. That is what he says, that is
11 his sworn evidence here. Now will you tell the Tribunal whether you accept
12 that it was an inducement or a bribe for your vote in Carrickmines?

13 A. Absolutely not.

14 Q.652All right. Well, would you tell the Tribunal now why it is that, or why it was
15 that the two weeks or so immediately following your voting for this proposal,
16 this proposal which was strenuously opposed by the manager, strenuously opposed
17 by many of the councillors representing the area, Frank Dunlop arrived in his
18 office with 2,000 pounds stuffed in his Irish Times, left it on your desk and
19 walked away without saying a word, will you offer a coherent or plausible
20 explanation for that?

21 A. Well I mean, the first thought that comes to my mind is I volunteered that
22 information to the Tribunal three or four years ago. If I had any concern
23 about how that transaction might have been interpreted by the Tribunal, I had a
24 choice to withhold that information which I didn't.

25 Q.653The question is --

26 A. I am absolutely confident in my position.

27

28 CHAIRMAN: Well, Mr. McGrath, you don't have a choice about withholding
29 information.

30 A. Perhaps not.

1 Q.654MR. GALLAGHER: Mr. McGrath, what I am putting to you is what Mr. Frank
2 Dunlop --

3 A. I understand exactly what you are putting to me.

4 Q.655He has sworn in evidence to this Tribunal, I am asking you if you can give in
5 all the circumstances a coherent or plausible explanation as to why he would,
6 unannounced, apart from a phone call, arrive at your office in Clondalkin,
7 given that his offices were in Mount Street and his home was in County Meath,
8 why he would arrive in your office in Clondalkin unannounced with nothing but
9 the Irish Times into which he had carefully stashed 2,000 pounds in cash? Are
10 you asking this Tribunal to believe that that had nothing to do with the
11 motion, the Paisley Park motion which he was so anxious to have passed?

12 A. It may be that Mr. Dunlop perceived it to have something to do with it, but I
13 certainly did not and had I perceived it be that way, I would have rejected it.

14 Q.656Can you offer the Tribunal any explanation as to why Mr. Dunlop, having told a
15 story with which you largely agree, would tell something that is untrue to the
16 Tribunal in relation to the payment, knowing that it was very, very seriously
17 damaging evidence against you, if accepted by the Tribunal? Why would he say
18 that you received this money as a bribe if that was not so?

19 A. I have no idea.

20 Q.657Can you offer any explanation as to why --

21 A. I cannot understand what motivated him to say that.

22 Q.658You accept that he said that, I take it?

23 A. I accept he said it, but I mean I am not accepting the truth of what he said.

24 Q.659No, but can you give any explanation as to why Frank Dunlop, having told a
25 story with which you agree 80 or 90 per cent of the detail, if you like, why he
26 would insert something in his evidence that was potentially exceptionally
27 damaging to you in your political career?

28 A. I can't offer an explanation as to why he would do that. I know he was under
29 duress at the time and he was trying to explain away sums of money which he had
30 obviously received from his client. That's the only conclusion I can come to.

1 However --

2 Q.660Why would --

3 A. His motives, I am -- you are asking me to speculate on his motives. I can only
4 tell you at no time, as I have already said, was there any suggestion
5 whatsoever any donation he made to me, in particular that one had anything to
6 do with any vote in Dublin County Council.

7 Q.661You see --

8 A. And that remains my position. I don't know how more emphasis -- how more
9 emphatic I can be about it.

10 Q.662I am trying to see if you can assist the Tribunal any more than you have.

11 You see, if you look at Mr. Dunlop's evidence, he has said that he did pay you
12 other monies, he paid you what he describes as legitimate contributions,
13 legitimate political contributions for golf classics and legitimate
14 contributions of that nature, the order of 650 or 5-600 pounds, he says they
15 were legitimate. Now, if it had been his intention to do you down, as it were,
16 if that had been his motive, he could easily have said that these payments to
17 you were given to you as bribes also and that he had agreed to support your
18 golf classic on the basis that you would support a specific motion that he was
19 interested in, but he didn't do so. But he does take this particular payment
20 of 2,000 pounds which you acknowledge receiving, acknowledge receiving in cash,
21 acknowledge receiving wrapped in the Irish Times and he says he paid that to
22 you with your agreement, at your request, as a bribe.

23 A. Yes, but that's not true.

24 Q.663Why would he say it if it's not true?

25 A. I have no idea why he would say that.

26

27 CHAIRMAN: Mr. McGrath, your relationship with Mr. Dunlop at around that time
28 was solely, as I understand it, to do or arising from his lobbying for support
29 for Paisley Park. You weren't otherwise a personal friend of his, is that the
30 case?

1 A. I wouldn't have said I was a personal friend.

2

3 CHAIRMAN: There was no other purpose for you meeting at that time?

4 A. I knew him quite well.

5

6 CHAIRMAN: But am I right that there was no other purpose that he would be
7 coming to your office or meeting you elsewhere, it was all to do with his
8 lobbying for the support for Paisley Park?

9 A. No, as it transpired on the day, the only reason he called to the office was to
10 leave me a political donation.

11

12 CHAIRMAN: No, no. But I am talking around that time in meetings prior to
13 that, over the previous months.

14 A. Well, he did represent several other clients.

15

16 CHAIRMAN: Yes, but he was meeting you and you were meeting him purely in his
17 capacity as a lobbyist. You weren't social friends, you weren't family
18 friends?

19 A. No, we weren't social friends.

20

21 CHAIRMAN: And can I ask you also -- it must have -- it must have entered your
22 mind whose money is this that he is giving me? Is it Mr. Dunlop's personal
23 money or is he being given it by someone else to give to me? Did you ask
24 yourself that question? It was a lot of money at the time, a great deal of
25 money and it was, I think on your own evidence, probably the largest single
26 donation that you had received. So, did you say to yourself, as you went home
27 that evening, is this his money, his personal donation or is he acting for
28 somebody in giving it to me?

29 A. I am sure I asked myself that question.

30

1 CHAIRMAN: And what do you think the answer was, in your mind?

2 A. Well, Mr. Dunlop didn't offer me, he didn't suggest to me that was for any, on
3 behalf of any particular client.

4
5 CHAIRMAN: No, you said he said it was for election expenses.

6 A. Yes.

7
8 CHAIRMAN: Now there was no immediate election looming at the time, but it
9 must have entered your mind is this his money, his personal money or is he
10 giving me money from someone else? What did you think about --

11 A. On any previous occasion that he had made a donation, I assumed it was his
12 personal money.

13
14 CHAIRMAN: All right. Well, what did you think about this exceptionally large
15 sum of money?

16 A. I had no reason to believe other than it was his personal money.

17
18 CHAIRMAN: And is that your honest belief at the time?

19 A. Yes, I didn't query it at the time because there was nothing sinister in my
20 mind about it. I just accepted --

21
22 CHAIRMAN: So he was dipping into his own personal funds to give you money
23 while at the same time lobbying on behalf of landowners and developers?

24 A. Well, it would appear from what we know now that --

25
26 CHAIRMAN: No, no. I am not talking about -- I accept we have a different
27 version now. But at that time, what did you think yourself was the money, his
28 personal money or was it, was he acting for somebody in giving you the money?

29 A. I didn't draw the conclusion that he was acting on behalf of any specific
30 person.

1

2 CHAIRMAN: You thought it was his own private personal donation from his own
3 funds?

4 A. Yes, I took it as that at face value, yes.

5

6 MR. GALLAGHER: Tell me, did you write to him subsequent to his handing over
7 that money or did you issue a receipt and say, "Dear Frank, thank you very much
8 for your very generous contribution" or did you issue a receipt, acknowledge
9 receipt?

10 A. No, I don't -- no, I don't think I did, no. I would have thanked him
11 personally.

12 Q.664But you didn't think it appropriate to write to him to thank him for this very
13 generous contribution?

14 A. No, there was no need.

15 Q.665Did you telephone Mr. Dunlop following receipt of that sum of money?

16 A. I probably did, yeah.

17 Q.666Do you remember whether you did or not?

18 A. I can't say for sure whether I did or not.

19 Q.667So is the answer you don't know whether?

20 A. Yes, that's the answer.

21 Q.668Is that the truth?

22 A. I would have thanked him the next time I saw him or else -- I probably did
23 phone him though.

24 Q.669Probably did phone him. Now, did you have discussions with Mr. Dunlop on the
25 telephone up to and prior to the local elections in 1999 at which payments that
26 he made to you or contributions he made to you or monies he paid to you were
27 discussed?

28 A. Not that I can recall, no.

29 Q.670Do you recall having a discussion about a sum of 10,700 pounds or thereabouts,
30 does that mean anything to you?

1 A. Yes, I recall having a discussion about that.

2 Q.671All right. I don't want to get involved in that any more at this stage, but
3 you do -- so you do recall having a discussion with him about monies?

4 A. Yes, I do.

5 Q.672All right. Now he says that you had discussions, including a discussion about
6 that particular sum and circumstances surrounding it, and he says that you were
7 anxious to ensure this would be categorised as a loan from a particular
8 individual and he agreed to categorise it as a loan, do you agree with that?

9 A. I don't know if I agree with that. I remember discussing with him, I think I
10 asked him --

11 Q.673Was this sometime after the figure in question had arisen and the matter had
12 arisen, some years later?

13 A. Yes, the matter hadn't been resolved, I probably asked him --

14 Q.674I don't want to get too deeply involved in it.

15 A. I am trying to answer you.

16 Q.675I understand that.

17 A. I probably inquired as to how he was going to deal with that.

18 Q.676Indeed. Indeed. He said that you were anxious that it would, this sum would
19 be categorised as a loan, do you accept that?

20 A. I can't recall saying that but --

21 Q.677If he says that that is what happened, do you accept it, you accept that there
22 was a discussion about it, why would there be a discussion about it unless it
23 was going to be established how it was going to be characterised?

24 A. Well, I think I asked him what way was he going to characterise it.

25 Q.678That's right, how it was going to be characterised. He says that you were
26 anxious that it would be characterised as a loan, he agreed that it would be
27 characterised as a loan.

28 A. I will go along with that, we had to come to some conclusion on it.

29 Q.679Now he says that subsequently after the terms of the Tribunal were extended,
30 you contacted him again, and it was agreed between you that other, any other

1 payments other than those clearly identifiable as legitimate election related
2 expenses at specific election times would be ignored completely.

3 A. No, I don't recall that.

4 Q.680He also says that it would be agreed between you that payments at election time
5 would be regarded as having no connection with the 1991/93 Development Plan.

6 A. That didn't need to be agreed.

7 Q.681He says it was and he says it was particularly agreed that it would have no
8 connection with one specific development?

9 A. I have no -- no, I do not recall that being agreed.

10 Q.682Do you recall discussing it with him?

11 A. We had one meeting which was cut short at which that was the thrust of it, but
12 we never got into --

13 Q.683Where was that meeting held?

14 A. In a restaurant in Castleknock.

15 Q.684When was that?

16 A. It was 19 -- I think I have given --

17 Q.685Was that the public house restaurant adjacent to the M50?

18 A. Yes, that's the one.

19 Q.686Well now, what discussion did you have in the course of that meeting about
20 monies and how they would be treated and how they would be described?

21 A. Well we never actually got down to the actual discussion that we probably were
22 going to have because the meeting was interrupted.

23 Q.687Yeah, you said we had one meeting which was cut short and which the thrust of
24 it was, as I understood what you were saying, was that the thrust of what you
25 were about to talk about or had commenced to talk about was how payments that
26 had -- when I say payments I use that neutrally again -- the handing over of
27 monies would be, would be described by you and by him?

28 A. Yeah, I think that would be fair to say, yeah.

29 Q.688That was the purpose of the meeting?

30 A. Yeah.

1 Q.689And would it be fair then to say that going to the meeting, you knew that that
2 was the purpose of meeting him at this restaurant or pub restaurant, to have a
3 chat about what you were going to tell the Tribunal, in effect?

4 A. No, it wasn't necessarily that, it was -- I was just anxious to know how that
5 particular sum of money was going to be dealt with.

6 Q.690Why were you particularly concerned about that particular sum of money?

7 A. Because we -- that -- it was never resolved.

8 Q.691Well --

9 A. Now he -- I would regard it as outstanding.

10 Q.692Mr. Dunlop says that you had resolved that a considerable time before the terms
11 of reference were amended in that he had asked -- sorry, he had agreed your
12 suggestion that that sum of 10 700 pounds would be described as a loan and he
13 agreed to that.

14 A. When did he say he agreed that?

15 Q.693He said he had a number of telephone conversations with you up to and included
16 immediately prior to the local elections in 1999 and the local elections in '99
17 were held on the 11th of June of '99. He says immediately prior that you had
18 your discussions, this is at a time when the Tribunal had been established and
19 you were particularly concerned about how that sum was going to be described or
20 designated. You were anxious that it would be described as a loan and he
21 agreed that it would be described as a loan. That was the agreement between
22 the two of you. That's what he says.

23 A. I accept that's what happened.

24 Q.694He says that happened before the 11th of June, then he says subsequently,
25 that's after that time, you contacted him and you, ye agreed between ye that
26 other than those clearly identifiable as legitimate election expenses at
27 specific election times that they would be ignored completely; in other words
28 nobody would be told about them, other than those which were specifically
29 identifiable as having been made at election time, did you agree that?

30 A. No, and --

1 Q.695Did you discuss it?

2 A. That's not consistent with the evidence that I have given in affidavit to the
3 Tribunal.

4 Q.696Well, did you discuss it?

5 A. No, I don't think we did, I don't think we did discuss that.

6 Q.697Why would he say that you discussed this if you hadn't discussed it?

7 A. Well, I don't know why he would say that.

8 Q.698He says that it was also agreed between you that payments at election time
9 would be regarded as having no connection with the 1991/93 Development Plan and
10 more particularly would have no, not be described as having any connection with
11 the particular development.

12 A. Well, I don't specifically remember me agreeing that one. What I probably did
13 say to him was when it came to me giving my statement to the Tribunal,
14 vis-a-vis whatever contributions, that I would be saying what I got from them,
15 which I subsequently did.

16 Q.699You have just told us about a meeting that you have had with Mr. Dunlop at a
17 pub restaurant near the M50, may I have page 82 please, you wrote to the
18 Tribunal about this, the Tribunal wrote to you in the first instance, perhaps
19 page 80 first, on the 5th of February 2003 and asked you whether you had, at
20 any time since the 4th of November 1997, had any meetings communications and/or
21 discussions, whether directly or indirectly, and whether by telephone, fax,
22 through agents, third parties, advisers or otherwise with Frank Dunlop
23 concerning this Tribunal and/or matters which were likely to be inquired into
24 this Tribunal. Then you were asked if your answer to that question was yes,
25 you were asked a further number of questions.

26 Number 3: What if anything was said and by whom at each such meeting,
27 communication and discussion in relation to any contributions, donations,
28 payments, gift made to you and whether, directly or indirectly, by or on behalf
29 of Frank Dunlop or any company, legal entity with which he was or is
30 associated.

1 B. The evidence to be given to this Tribunal by you -- sorry, 80? -- "and any
2 other witness or potential witness.

3 C. The approach that should/would be adopted by you and or Frank Dunlop or any
4 other person in relation to this Tribunal.

5 D. The manner in which any payment/contribution or gift made to you or for
6 your benefit by Frank Dunlop or any company or legal entity with which he was
7 or is associated would be described or designated by you and/or Frank Dunlop in
8 any evidence he or you would give to this Tribunal.

9 4. Did you ever communicate or have a discussion with Frank Dunlop concerning
10 the Tribunal and/or its likely duration and likely extent of the work of the
11 Tribunal. If your answer to question 4 is yes, please give full and detailed
12 particulars thereof." Do you remember getting that letter?

13

14 Now, you replied to that letter and your reply is to be found on page 28. You
15 replied 7th of February 2003 and said as follows "Dear Ms. Howard, in reply to
16 your letter of the 5th inst, I cannot be specific about dates or times.

17 However, I did meet Frank Dunlop at his request in a public house restaurant
18 adjacent to the Navan Road/M50 roundabout several years ago. The purpose of
19 the meeting was not made clear to me over the phone and when we met our
20 discussions never got going beyond general chat because Frank was distracted by
21 two men who he felt were following him."

22

23 Now, how do you reconcile that statement with the statement that you have, the
24 evidence you have given to the Tribunal that you had discussions with
25 Mr. Dunlop and that you agreed how certain monies would be designated or
26 attributed?

27 A. I think my evidence was that I only discussed that the 10,7 with him, which I
28 don't -- which was --

29 Q.700Why did you not say that in this letter?

30 A. I probably didn't recall it at the time.

1 Q.701I see.

2 A. It didn't seem to be of that significance maybe, I don't know.

3 Q.702You went on "Sure enough, two men entered the pub and were looking around the
4 place. When they saw where we were sitting, they sat down nearby and ordered
5 coffee. Frank suspected they were plain clothes gardai and decided we should
6 leave. As soon as we left, the two men followed and got into separate cars.
7 Frank noted the registration number and phoned me later to confirm they were
8 gardai. That, to the best of my recollection, is the last time I heard from
9 Frank Dunlop." Now did you tell the Tribunal a short time ago in traveling to
10 that meeting and going to that meeting you knew what was to be discussed?

11 A. I had a fair idea.

12 Q.703Well you, if you want me to recall to you what you said earlier, I will do so,
13 you told the Tribunal that you knew when going to this pub restaurant near the
14 M50 that you knew what was going to be discussed; isn't that right?

15 A. Can I see that back, please?

16 Q.704Sorry, just trying to find it --I will pass from that for just a few moments.
17 I will come back to it when we trace that.

18

19 CHAIRMAN: Mr. Gallagher, do you want to try and finish this, with
20 Mr. McGrath?

21

22 MR. GALLAGHER: Well, given that I need to get this, perhaps I can come back to
23 it. I think perhaps I will take a short amount of time in the morning. But
24 before I rise may I just move on to another -- sorry, perhaps we have that

25

26 CHAIRMAN: If that's the only outstanding issue, perhaps in ease of
27 Mr. McGrath?

28

29 MR. GALLAGHER: In the course of your evidence, I said to you as follows:

30 "Yes, you said we had one meeting which was cut short, which the thrust of --

1 and the thrust of which I understood what you were saying was that you were
2 about to talk or had commenced to talk about how payments, when I say payments
3 I use that a neutrally again, the handing over of money would be described by
4 you and by him.

5 Answer: Yes, I think that would be fair to say, yes.

6 Question: That was the purpose of the meeting. And would it be fair to say
7 that that was going, that going to the meeting you knew that that was the
8 purpose of the meeting at the restaurant or pub restaurant to have a chat about
9 what you were going to tell the Tribunal, in effect?

10 Answer: No, that wasn't necessarily -- I was anxious to know how that
11 particular sum was money was going to be dealt with.

12 A. Yes.

13 Q.705 And at an earlier stage you had said when I asked you about the 10,700 pounds
14 you said that "He had agreed your suggestion that sum of 10,700 pounds would be
15 described as a loan and he agreed that you said "When did he say he agreed
16 that? I said he said he had a number of telephone conversations with you up to
17 and including immediately prior to the local elections in 1999 and the local
18 elections in 1999 were on the 11th of June of that year. He says immediately
19 prior to that that you had discussions, this is at a time when the Tribunal had
20 been established and you are particularly concerned about how the sum was going
21 to be described or designated, you were anxious at that it would be described
22 as a loan and he agreed it would be described as a loan. That was the
23 agreement between the two of you. That's what he says.

24 Answer: I accept that's what happened.

25 Question: He says that happened before the 11th of June.

26 Now what I want to know from you is --

27 A. Mr. Gallagher, I think it is fair to say I accept, I said I accept that's what
28 happened at the time, you know, just as much as to move things on, you know
29 what I mean? I can't say for sure that's what happened, but you seem to place
30 such a strong emphasis on it now that maybe I should have said look, I am not

1 quite sure and you know --

2 Q.706I will go back and we can perhaps clear it up in this way.

3 A. Okay.

4 Q.707What was your intention in meeting Frank Dunlop at the pub restaurant that you
5 referred to?

6 A. The purposes of the meeting wasn't discussed over the phone.

7 Q.708What was your intention I asked you.

8 A. Well, I had no intention as such. Frank asked to meet me and I agreed to meet
9 him, I am making a good guess at what it might have been about but there was no
10 actual agenda.

11 Q.709What do you guess it was going to be about?

12 A. Exactly what we are talking about.

13 Q.710Which is?

14 A. That particular amount of money would be my first, if it was going to be about
15 anything more than that.

16 Q.711He said that had been an agreed sum a time before the election, quite a long
17 time --

18 A. I am not so sure about that, I am not so sure about that.

19 Q.712I just want to put to you, come back to something that you said this morning.
20 You talked this morning about a concern you had that material had leaked from
21 the Tribunal and I took issue with that. I remember I told you that no such
22 material had leaked from the Tribunal. I want to put it to you that following
23 a report in the Sunday Times, that was the report you were referring to, is it?

24 A. No, I was referring to the information that was --

25 Q.713All right, okay, a report appeared in the Sunday Times concerning meetings that
26 were alleged to have taken place between yourself and some Fianna Fail figures,
27 isn't that right?

28 A. Go on, yeah. Well, if it was in --

29 Q.714And you were asked specifically to come in to the Tribunal and you and your
30 solicitor were informed that the purpose of the meeting was to investigate

1 whether there had been any unauthorised disclosure of confidential information;
2 isn't that right?

3 A. Yes.

4 Q.715And I am not going to go through the details of what was said but I just want
5 to put it to you that you told the Tribunal at this stage that you were told by
6 a person whom you named to the Tribunal that that person had told you that he
7 had received the information which he had conveyed to you from a source very
8 close to the person who was alleged to have been the donor of certain monies;
9 do you understand what I am saying?

10 A. Not entirely but --

11 Q.716I am putting it to you that you were told by somebody with whom you had been
12 dealing, who is not in any way associated with the Tribunal, that that person
13 had received information from somebody outside the Tribunal, but very close to
14 the donor of certain monies, about what is alleged to have been, to have
15 happened or what monies were alleged to have been paid, do you remember that?

16 A. I accept that that's what I said at the time.

17 Q.717You, in fact, told us -- told me indeed, among others -- that that was what had
18 happened?

19 A. Okay. If I did, I did.

20 Q.718So that there was no question of suggesting that the matter had been leaked by
21 the Tribunal at that time, you acknowledged that the information had come to
22 the people concerned from an entirely different source?

23 A. That wasn't to rule out the possibility that it came from the Tribunal.

24 Q.719I am telling you what you told --

25 A. That was an alternative source.

26 Q.720I am telling what you, you told the Tribunal. I want you to confirm that that
27 is so, if you want me to go into it in greater detail -- I want, I want to be
28 absolutely clear you made an allegation this morning which was not in
29 accordance with what you said in the past, something you have said so far as I
30 am concerned for the first time today in evidence. I want you to either deal

1 with it, accept you told an entirely different story to me and my colleagues --
2 A. I don't accept I told an entirely different story. What I accepted at the time
3 that we met on arising out of those, my concerns about leaks was we agreed that
4 there could have been more than one source of the information, but I accept
5 that you were emphatic that it wasn't the Tribunal that was the source, that's
6 what I accepted. I accepted your word for it on the day.

7 Q.721But you told us more that that. That you pressed a particular named
8 individual, an individual named by you as to where he had received information
9 and you told us that this individual had told you that the source of his
10 information was the person very close to the donor, you know who I am talking
11 about?

12 A. No, but I mean if that's what I said, I will accept that's what I said at the
13 time.

14 Q.722All right, thank you.

15

16 CHAIRMAN: Just, I just want to ask you this 10,700 which was, is to be
17 treated as a loan, has -- that was going back a number of years.

18 A. Yeah.

19

20 CHAIRMAN: That's that been repaid by you to Mr. Dunlop?

21 A. Not as yet.

22

23 CHAIRMAN: So is it a loan?

24 A. I will be having further discussions about that with the person who loaned the
25 money when the Tribunal is over, because I understand I am precluded from doing
26 so under the terms of the Tribunal.

27

28 CHAIRMAN: You haven't seen Mr. Dunlop, I think, for quite a while, have you?

29 A. No.

30

1 CHAIRMAN: Not since soon after the Tribunal was established, is that right?

2 A. I haven't seen him since that meeting in the restaurant in Castleknock.

3

4 CHAIRMAN: All right.

5 A. Nor spoken to him.

6

7 MR. GALLAGHER: I wonder, Sir, you had indicated that you might consider
8 dealing, concluding Mr. McGrath's evidence this evening, I will be about five
9 minutes if the Tribunal would wish --

10

11 CHAIRMAN: I am sure you would prefer, Mr. McGrath, to finish today.

12 A. I will be happy to finish. I am going to be clamped.

13

14 CHAIRMAN: Perhaps, would you prefer to come back?

15 A. My time ran out at 4 o'clock anyway, so it makes no difference.

16

17 CHAIRMAN: If it is only five minutes, we'll deal with it now.

18

19 MR. GALLAGHER: All right. Can I have page 94. Mr. McGrath, I want to put to
20 you a number of entries from the diaries of Frank Dunlop concerning meeting he
21 had with you, I am just putting them to you to see whether or not you will
22 accept that you had a meeting or conversation, I think admittedly he has
23 described them as meeting on the date which he described. Now I will go
24 through them if you wish, the dates he has described, you can take from me
25 there are diary entries to back this up and I will show you diary entries. He
26 has a diary entry for 23rd November '90, 3rd January '92, the 5th of February
27 '91, 27th January '92, 7th April '92, 23rd of April '92, 6/5/92, 17/6/92,
28 14/10/92, 9/12/92, 8/9/93, 24/6/94 when he called to your home. And the
29 5/10/94 .

30

1 And I will go, perhaps we'll go to page 95 just to - I can give you copies.

2 They are not particularly clear, but you can take it --

3 A. I can see it, thanks.

4 Q.723 That there are diary entries for all of those dates, sorry, save for the 6th of
5 May 1992 which I inadvertently read out. Would you accept, have you any
6 comment to make on the fact that there are so many entries involving meetings
7 with Mr. Dunlop?

8 A. No, that would be consistent with what I said here. I met him on many
9 occasions, it's -- I didn't keep --

10 Q.724 And if Mr. Dunlop says he met you on all of those occasions as recorded in his
11 diary, I take it you wouldn't disagree?

12 A. I can't say that for a fact I met him.

13 Q.725 No, but you wouldn't disagree -- you are not in a position to disagree about
14 any one individual --

15 A. I am not in a position to disagree, except to say if I were to compare to my
16 own entries but I don't have those diaries. They are gone at this stage.

17 Q.726 Now I just wanted to put to you three -- can you tell the Tribunal what you did
18 with the 2,000 pounds that Mr. Dunlop left in the Irish Times in your office at
19 the end of the second half of June of 1992?

20 A. I would have used it for general election expenses to defray them and
21 contributions to local causes.

22 Q.727 Did you lodge the sum of 2,000 pounds or any part of it to any bank account
23 held by you on or your behalf by your wife?

24 A. No, normally I wouldn't lodge cash. I wouldn't -- I may have, but generally
25 speaking, no.

26 Q.728 I have no further questions.

27

28 JUDGE FAHERTY: Mr. McGrath, can I ask you, did you ever discuss with your
29 party or your Council colleagues the fact that you were getting what you say
30 were political donations from Mr. Dunlop?

1 A. No, I would always and still do, regard political donations from any source as
2 private and confidential. And so in that, on that basis I wouldn't have ever
3 discussed with anybody else.

4

5 JUDGE FAHERTY: You got a fair substantial number of donations from him over
6 the years; isn't that correct?

7 A. From Mr. Dunlop?

8

9 JUDGE FAHERTY: Yes.

10 A. I got several, yes.

11

12 JUDGE FAHERTY: Yes. Did you ever, well, did you ever -- did you think that
13 he was giving similar donations to others or did that ever cross your mind?

14 A. It crossed my mind but I wouldn't ask.

15

16 JUDGE FAHERTY: Yes.

17 A. I wouldn't expect to be told.

18

19 JUDGE FAHERTY: If you were to presume, what would it be? Would you presume
20 that he was making such donations to others apart from yourself?

21 A. I would presume he was, yeah.

22

23 JUDGE FAHERTY: And in that context, given that he may well have been, that
24 would seem to be a substantial amount of money that he, on your evidence, would
25 have been paying out of his personal monies; isn't that so?

26 A. Yes, I accept that.

27

28 JUDGE FAHERTY: Would you not have regarded that as an extraordinary largesse
29 on his part?

30 A. I suppose now retrospectively, with the information in the public domain now, I

1 understand now where the largesse was coming from but -- at the time, as I
2 said, I didn't -- I didn't have a concern about that at the time.

3

4 JUDGE FAHERTY: Just one other question. As well as being a councillor, you
5 were a businessman, you run a security business we have heard?

6 A. Yes.

7

8 JUDGE FAHERTY: You described Mr. Dunlop after he left Fianna Fail and the
9 public service as a lobbyist and you would have known that he was running a
10 business?

11 A. Mm-hmm.

12

13 JUDGE FAHERTY: And presumably would you accept that he was when he was down
14 in the council chambers, he wouldn't have been there for the good of his
15 health, he would have been there on business; isn't that right?

16 A. Yes, I accept that, yes.

17

18 JUDGE FAHERTY: And would you accept that whenever he was there, he would have
19 to be billing others for his time and efforts?

20 A. Oh, yes, I accept that.

21

22 JUDGE FAHERTY: Very well.

23

24 CHAIRMAN: Thank you. Mr. McGrath is finished, I take it?

25 Thank you very much, Mr. McGrath

26 A. Thank you very much.

27

28 CHAIRMAN: Half ten tomorrow.

29

30 MR. GALLAGHER: Thank you.

1 THE HEARING THEN ADJOURNED TO THE FOLLOWING DAY,
2 25TH JULY 2003 AT 10.00 AM.

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